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Record of Decision

Final Environmental Impact Statement



Oil and Gas Leasing

Northern Little Missouri National Grassland



Custer National Forest



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NORTHERN LITTLE MISSOURI NATIONAL GRASSLAND

CUSTER NATIONAL FOREST

OIL AND GAS LEASING

FINAL ENVIRONMENTAL IMPACT STATEMENT

RECORD OF DECISION

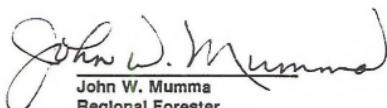
Prepared by:

U.S. DEPARTMENT OF AGRICULTURE - FOREST SERVICE
CUSTER NATIONAL FOREST
R-1, NORTHERN REGION

U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MONTANA STATE OFFICE

October 24, 1991

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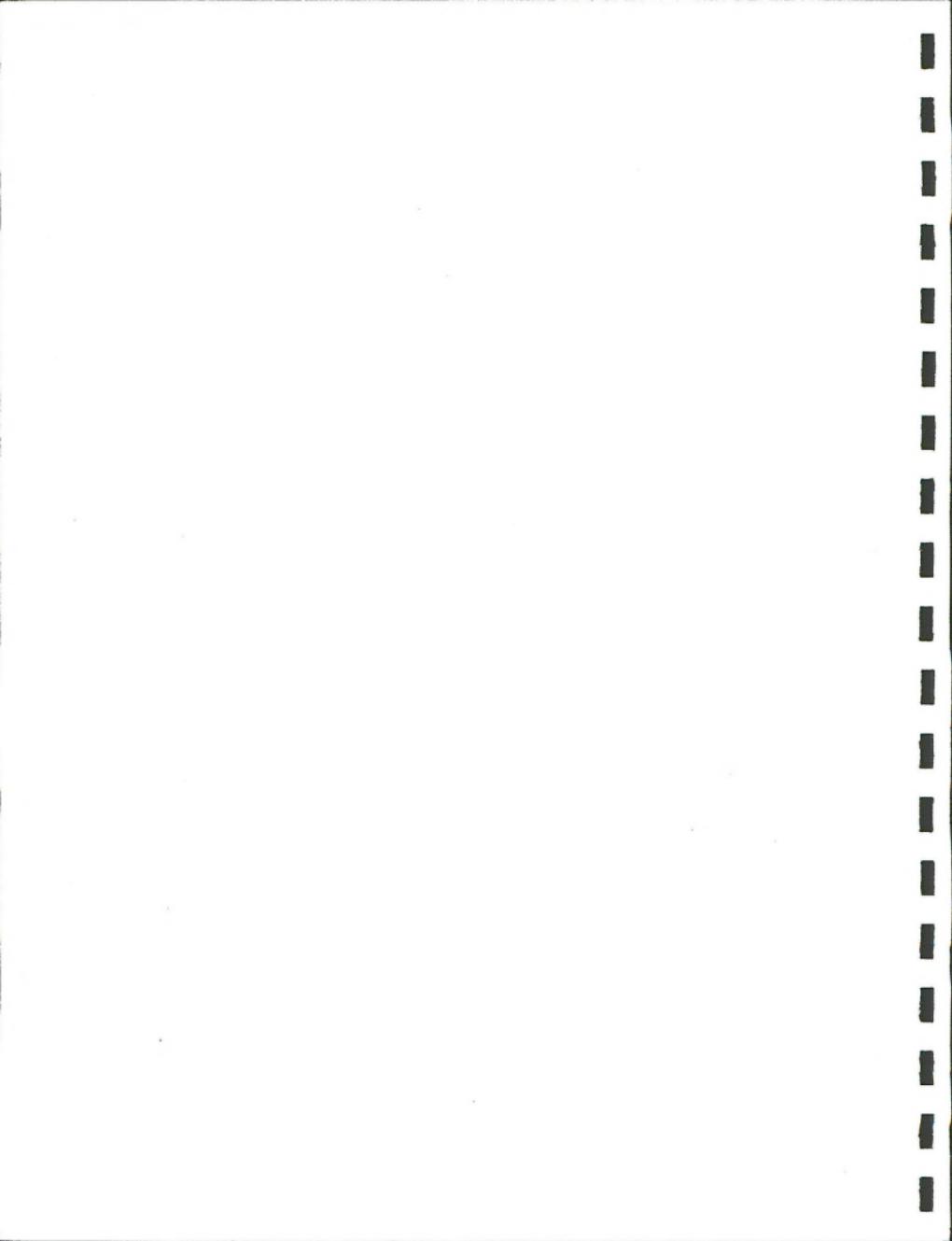
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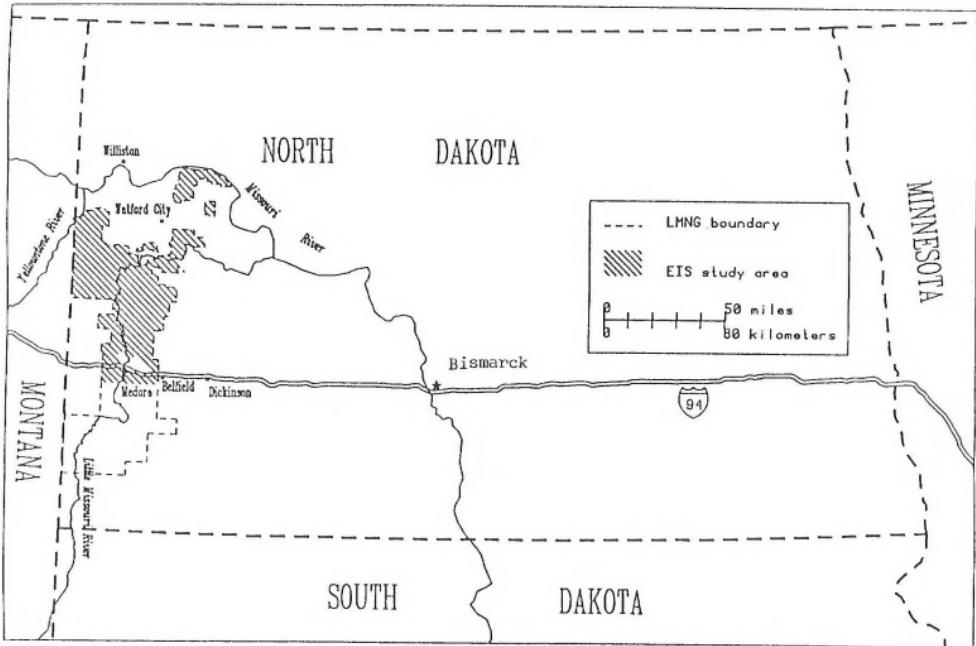
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MAP 1
FEIS STUDY AREA



Map 1 FEIS Study Area



I. INTRODUCTION

A. PURPOSE AND DESCRIPTION OF THE RECORD OF DECISION (ROD)

The Federal Onshore Oil and Gas Leasing Reform Act was enacted by Congress in 1987. The implementing USDA 36 CFR 228 and DOI 43 CFR 3100 regulations were finalized and published in the Federal Register on March 21, 1990, and June 17, 1988, respectively. The regulations set forth the procedures by which the Forest Service and the Bureau of Land Management (BLM) will carry out their statutory responsibilities in the issuance of oil and gas leases. The purpose of this Record of Decision is to document Forest Service and BLM decisions concerning lands in the Northern Little Missouri National Grassland (NLMNG). The ROD documents the Forest Service decision concerning which lands in the NLMNG will be administratively available for oil and gas leasing in accordance with 36 CFR 228.102(d) and documents decisions on specifically which lands are authorized for the BLM to offer for lease in accordance with 36 CFR 228.102(e). These decisions incorporate the terms and stipulations for leases that have been determined necessary to protect the surface resources based on the NLMNG Oil and Gas Leasing FEIS and the Custer National Forest Land and Resource Management Plan (Forest Plan) FEIS. This ROD also documents the Forest Service decision to amend the Custer Forest Plan regarding which lands are administratively available for oil and gas leasing. Refer to Map 1 in this document for the location of the EIS Study Area.

The regulations at 43 CFR 3101.7-2(c), which pertain to leasing of Federal lands administered by an agency outside of the Department of Interior, require the BLM to review all recommendations and to accept all reasonable recommendations of the surface managing agency. In the present case, such recommendations involve decisions being made by the Regional Forester with respect to administrative availability, authorization of specific lands for leasing, and stipulations needed to protect surface and subsurface resources within the NLMNG. The purpose of the BLM portion of the ROD is to determine, for those lands where consent to lease has been granted, if the Forest Service recommendations and decision are reasonable.

B. PURPOSE AND NEED OF THE PROPOSED PROJECT

The purpose of this proposed project is for the Forest Service to determine which lands in the NLMNG are administratively available for oil and gas leasing in accordance with 36 CFR 228.102(c) and (d) to determine which specific lands in the NLMNG the Forest Service will authorize the BLM to offer for lease in accordance with 36 CFR 228.102(e).

There are legal and practical needs for these decisions to be made at this time. They are as follows:

- **Requests to Lease:** Leasing in the NLMNG since completion of the Forest Plan in June of 1987 has been done on a lease-by-lease basis in response to drainage of federal minerals concerns. During this period, more requests for specific tracts have been received than processed. Without completion of this project, leases will have to be dealt with on a lease-by-lease basis which is not practical, nor responsive to the demand for leasing.
- **Existing Leases:** A number of existing leases are expected to expire within the next 5 years as discussed in the FEIS (FEIS page 3-15 and Table 3.8). Many of these leases are needed for the development of logical drilling units. Without these parcels being leased, drilling opportunities are limited.

C. LEGAL CONTEXT IN WHICH DECISIONS ARE MADE

1. The Oil and Gas Leasing Reform Act and Forest Service Regulations Implementing the Oil and Gas Leasing Reform Act

The Leasing Reform Act of 1987 modified the authorities of the Secretaries of Interior and Agriculture. The Forest Service developed implementing regulations which defined the procedures to be used and established the foundation for decision-making. The "Final Rule" was published in the Federal Register on March 21, 1990 (36 Code of Federal Regulations, Part 228, 100 et.seq; 55 FR 10423.)

In the implementing regulations, the Forest Service has three decision points relating to oil and gas development. The following text captures the spirit of the regulations which describe this decision process.

(a) Leasing Analysis (Lands Administratively Available for Leasing)

36 CFR 228.102(d) - Area or Forest-wide Leasing Decisions (Lands Administratively Available For Leasing)

The first decision is which lands to make administratively available for leasing, or which lands are open to leasing. This decision enables the oil and gas industry and the public to know which National Forest system lands may be available now or in the future for leasing. Forest Service publication of this decision is intended to enable the oil and gas industry to undertake long-range planning. At the same time, the Forest Service makes no decision to lease these lands. Upon completion of the leasing analysis, the Regional Forester shall promptly notify the BLM as to the area or Forest-wide leasing decisions that have been made; that is, identify lands which have been found administratively available for leasing.

(b) Leasing Specific Lands

36 CFR 228.102(e) - Leasing Decisions for Specific Lands

The next decision is made at such time as specific lands are being considered for leasing, the Regional Forester shall review the availability decision on which lands are administratively available for leasing and shall authorize the BLM to offer specific lands for lease subject to:

- (1) Verifying that oil and gas leasing on the specific lands has been adequately addressed in a NEPA document and is consistent with the Forest Plan.
- (2) Ensuring that conditions of surface occupancy identified in section 228.102 (c) (1) are properly included as stipulations in resulting leases.
- (3) Determining that operations and development could be allowed somewhere on each proposed lease, except where stipulations will prohibit all surface occupancy.

In the second decision, the Forest Service does make specific decisions to authorize leases on individual, specified areas of land. The Regional Forester may decide to authorize for lease all the lands described as "administratively available" in the leasing analysis, or to lease a smaller portion of these lands at any given time.

These two decisions are related to each other in that the leases authorized will be on lands earlier found to be "Administratively Available for Leasing", and each lease will include the stipulations determined to be necessary in the specific leasing decision.

In the instance of the NLMNG the Forest Service has decided to combine the Lands Administratively Available Decision with the Leasing of Specific Lands Decision. Both of these decisions are documented in this Record of Decision. Once these decisions have been made, the Forest Service will have authorized the BLM to offer specific lands for lease. It is then up to the BLM to offer the lands for lease in accordance with their regulations. After the lands have been leased, the lessee can file an application for permit to drill. Only after the application for permit to drill has been approved, in a separate decision by the agencies, is the lessee authorized to generate ground-disturbing activities.

As we continue discussions in this document, we will refer to 228.102 (d) as the "Lands Administratively Available for Leasing Decision" and the 228.102 (e) as the "Leasing for Specific Lands" decision. Both of these decisions must occur prior to the time the BLM offers specific National Forest system lands for lease.

The following decisions are also required by the regulations 36 CFR 228 but are not being made in this ROD. Appendix C of the FEIS contains a complete and detailed description of the entire leasing to abandonment process.

This ROD does not authorize any ground-disturbing activities. Those activities will be identified at the time an APD and surface use plan of operations have been provided. The BLM approves the APD, and the Forest Service approves the surface use plan. The Forest Service will analyze the proposed operations and issue a decision document.

(c) **Surface Use Plan of Operations (SUPO)**

36 CFR 228.107 Review of Surface Use Plan of Operations.

No APD on a Federal oil/gas lease on National Forest System lands may be granted without a SUPO approved by the Forest Service. The decision to approve, or deny, the SUPO will be based on an environmental analysis and will be subject to administrative appeal in accordance with agency appeal regulations. The process is described in 36 CFR 228.107.

(d) **Supplemental SUPO**

36 CFR 228.106(d) Supplemental Plan

A Supplemental SUPO is required for any surface disturbing operations that are not authorized by an approved SUPO. A supplemental surface use plan of operations can be requested under 36 CFR 228.106(d). At that time the Forest Service must analyze the effects of these proposed changes and issue a decision document.

Appeal procedures for each decision point will be in accordance with the Agency's appeal regulations.

In summary, there are several decisions made in the process of going from the administratively available decision to development. The Administratively Available decision will determine which, if any, lands will be identified as available for leasing. The Forest Plan will be amended, if needed, at the same time so that the decision made on the basis of this FEIS will be consistent with the Forest Plan. A Leasing Specific Lands decision will be made as described above. Neither of these two decisions authorizes ground-disturbing activities. At a later time, one or more lessees may file an APD. This will be reviewed in a site-specific NEPA process and a decision will be made whether to grant or deny the application.

When the Forest Service consents to the issuance of an oil and gas lease, by the leasing of specific lands decision, the lease may or may not be issued by the BLM. If a lease is issued, the lease may or may not be drilled. If an APD is proposed, the APD may or may not be approved. If the well is approved, it may or may not be economically feasible to develop and produce. This is a major distinction between oil and gas leasing and other activities which are authorized by the Forest Service. Most other activities are reasonably certain to proceed to development after the permit or contract is issued.

2. BLM Regulations Implementing the Oil and Gas Reform Act

The 1987 Federal Onshore Oil and Gas Leasing Reform Act also resulted in a number of changes related to BLM regulations regarding issuance of leases (43 CFR 3101). Key regulations applicable to the decision being made herein include:

43 CFR 3101.7-1 General Requirements

National Forest system lands, whether acquired or reserved from the public domain, are not to be leased over the objection of the Forest Service. In addition, acquired lands are to be leased only with the consent of the Forest Service. Nearly all of the National Forest system lands within the NLMNG are acquired.

43 CFR 3101.7-2 Action by the Bureau of Land Management

Where the Forest Service consents to leasing of National Forest System lands with required stipulations, the BLM must incorporate the stipulations into any lease which it may issue and may add additional stipulations. The BLM cannot issue a lease where the Forest Service objects to leasing or withdraws consent. The BLM must review all recommendations and accept all reasonable recommendations of the Forest Service.

3. Custer Forest Plan

The Forest Plan and Record of Decision (ROD) for the accompanying EIS were approved on June 10, 1987. This long-range, integrated land and resource management plan provides for integrated guidance for all natural resource management activities as required by the National Forest Management Act of 1976. The Forest Plan decisions were based on the analysis and alternative selection in the Final Environmental Impact Statement. The Forest Plan established goals and management direction for the entire Forest. This NLMNG FEIS tiers to the analysis made in the Forest Plan EIS as related to the Lands Administratively Available for Leasing decision. This EIS tiers directly (40 CFR Parts 1502.20 and 1508.28) to Chapters I, III, IV and VI and Appendices B, C and F of the Forest Plan FEIS. Copies of the Forest Plan FEIS are available for review in the Forest Supervisor's Office, at all Ranger District Offices on the Forest, and in the Regional Forester's Office, Missoula, Montana. At the time the Forest Plan was developed, the implementing regulations for the Federal Onshore Oil and Gas Leasing Reform Act were not available (36 CFR 228). However, the Forest Plan ROD identified which management areas are available for oil and gas leasing. This NLMNG FEIS reconsidered the previous availability decisions of the Forest Plan and provides the analysis needed to make specific leasing decisions.

(a) Forest-wide Goals, Objectives and Standards

Forest-wide goals, objectives, and management standards are detailed in the Custer Forest Plan (pgs. 3-39). Management standards that relate specifically to oil and gas leasing cover the general topics of geophysical operations, leasing, exploration and development, reserved and outstanding mineral rights, saltwater spills, and resource damage from toxic drilling fluids. These areas are to be managed in relation to various legally mandated requirements including, but not limited to, those associated with floodplains, wetlands, water quality, endangered species, and cultural resources.

The goal of minerals management on the Forest (Forest Plan page 3) is to be responsive to the National demand for energy and strategic minerals consistent with other resources objectives. The Forest is rich in energy resources and strategic minerals and is responding to the growing demand by making these products available for development. The Forest Plan recognizes that extraction of these mineral resources is important to the national public interest. The Forest Plan also recognizes that there are areas where recreation, wildlife habitat, or other resources are important. In these situations, measures will be taken to minimize adverse impacts to these values, or in some cases, the area will not be available for oil and gas development.

(b) Management Area Goals and Standards

The Management Areas are geographic subunits of the Forest. The Forest Plan includes goals and standards for 20 different Management Areas, each with management goals, resource potential and limitations. All of the Management Areas are described in Chapter III of the Forest Plan (pgs. 41-99).

In addition to the identification of management standards for oil and gas development, the ROD for the Forest Plan identified lands available, or not available, for leasing. The Forest Plan contains management standards for oil and gas exploration and development. The plan also provides other Forest-wide standards for the protection and coordination of other resource activities. Both the Forest Plan and the Forest Plan EIS are incorporated into this document by reference. Some standards and guidelines are being amended as a result of this analysis. The current Forest Plan directs managers to conduct site-specific analysis of available lands for oil and gas leasing. Areas identified in the Forest Plan for protection by a No Surface Occupancy (NSO) stipulation are:

- Slopes steeper than 40 percent.
- Areas of fragile soils
- Areas of high mass failure hazard
- Low visual absorption capacity that prevents reclamation to established visual quality objectives.
- Within 100 feet of prairie dog towns
- Within 200 feet of grouse dancing grounds
- Graves and grave yards
- Within the foreground seen area of the Little Missouri River if the visual quality objective of Retention cannot be met by using conventional methods
- Within the foreground and middle ground seen area of the Theodore Roosevelt National Park if the visual quality objective of Partial Retention cannot be met by using conventional methods
- Canyon complexes if they cannot be protected by a Limited Surface Use stipulation
- Key wildlife habitat areas if they cannot be protected by a Limited Surface Use stipulation

(c) Relationship of Custer Forest Plan to Decisions in This ROD

The ROD for the Forest Plan and the alternative selected in this ROD are not in agreement. Amendment Number 9 is included in Appendix A to bring the Forest Plan into agreement with the administratively available decision made in this ROD. Several other amendments included in Appendix A correct Forest Plan direction based on site-specific analysis done as a part of this FEIS.

The Forest Plan ROD identified all lands, excluding those in existing or proposed wilderness areas as available for consideration for oil and gas leasing. This Selected Alternative in this ROD has identified areas that are NOT administratively available for oil and gas leasing. The Forest Plan Standards and Guidelines are consistent with this ROD except for those being changed by the amendments included in Appendix A.

4. Oil and Gas Leasing

The BLM is responsible for issuing oil and gas leases on federal lands and on private lands for which the federal government retains mineral rights.

Competitive and noncompetitive leases may be obtained for oil and gas exploration and development on lands owned or controlled by the federal government. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 requires all public lands available for oil and gas leasing must be offered first by competitive leasing at an oral auction. Noncompetitive oil and gas leases may be issued only after no competitive bids have been received for public lands. Competitive leases are issued for a period of five years, while noncompetitive leases are issued for a 10-year period. Both types of leases continue for the period oil and gas are produced in paying quantities. The maximum competitive lease sizes are 2,560 acres in the lower 48 states. The maximum noncompetitive lease size is 10,240 acres in all states.

(a) Competitive Leasing Process

The BLM conducts oral auctions for oil and gas leases on at least a quarterly basis when there are available parcels of land. A Notice of Competitive Lease Sale lists lease parcels to be offered at auction. The Sale Notice is posted at least 45 days before the date of the auction. The Sale Notice identifies any lease stipulations or restrictions on surface occupancy.

There are three ways federal lands become available for lease:

1. Existing leases that have expired and leases that have been terminated, canceled, or relinquished.
2. Parcels identified by informal expressions of interest from either the public or Bureau of Land Management (i.e., for management reasons).
3. Lands included in offers filed for noncompetitive leases (effective January 3, 1989).

On the day of the auction, successful bidders must submit a properly executed lease bid form and make the following payments:

1. A share of the sale costs (\$75 per lease),
2. One year advance rental (\$1.50 per acre), and
3. Not less than the \$2-per-acre minimum bonus. The balance of the bonus bid must be received within 10 working days of the auction.

The bid form constitutes a legally-binding lease offer.

(b) Noncompetitive Leasing Process

Noncompetitive leases may be issued only for parcels that have been offered competitively and failed to receive a bid. Lands in expired, terminated, canceled, or relinquished leases are not available for non-competitive leasing until they have been offered competitively. After an auction, all lands that were offered competitively without receiving a bid are available for issuance of noncompetitive leases for a period of 2 years.

Offers must be submitted on a BLM-approved form, and they must include the following payments:

- (1) \$75 nonrefundable filing fee, and a
- (2) One year advance rental (\$1.50 per acre).

Noncompetitive lease offers filed on the first business day following the auction are considered as having been filed simultaneously. The priority among multiple offers received on the first business day for the same parcel are determined by drawings open to the public.

(c) Lease Restrictions

A lease does not convey an unlimited right to explore or an unlimited right to develop oil or gas resources found under the land. Leases are subject to terms and conditions. Additionally there are restrictions derived from legal statutes and measures to minimize adverse impacts to other resources and are generally characterized in a lease as stipulations. Stipulations modify the rights the government grants to a lessee. The stipulations are known by potential lessees prior to any sale and are applied at the time drilling is proposed. A detailed discussion of stipulations is in Appendix I of the FEIS.

(d) Standard Lease Terms and Conditions

The standard lease terms are contained in Form 3100-11 (U.S. Department of Interior, Bureau of Land Management, June 1988), Offer to Lease and Lease for Oil and Gas. Under the standard lease terms, the lessee has the right to use as much of the leased lands as is necessary to explore for, drill for, extract, remove, and dispose of oil and gas deposits that may be in the leased lands. These rights are subject to stipulations that might be attached to the lease, restrictions deriving from specific, nondiscretionary statutes (such as the Clean Air Act), and reasonable measures that may be required to minimize adverse impacts to other resource values, land uses or users . Such reasonable measures include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. According to 43 CFR 3101.1-2, "At a minimum, measures shall be deemed consistent with lease rights granted provided that they do not: require relocation of proposed operations by more than 200 meters; require that operations be sited off the leasehold; or prohibit new surface-disturbing operations for a period in excess of 60 days in any lease year."

Under the standard lease terms, the lessee is required to conduct operations in a manner that minimizes adverse impacts to the land, air, water, cultural, biological, visual, other resources, and other land uses or users. Areas to be disturbed may require inventories or special studies to determine the extent of impacts to resources. The lessee is required to complete inventories or short-term special studies in accordance with standard lease terms. If during construction, threatened or endangered species, objects of historic or scientific interest, or substantial unanticipated environmental effects are encountered, the lessee/operator is required to immediately contact the Surface Management Agency. The lessee will not conduct any operations that would result in the destruction of such species or objects.

This FEIS is intended to provide the required NEPA analysis to lease lands within the EIS study area. Any stipulations intended to mitigate effects on surface resources beyond that required by the standard lease terms must be attached to the lease at the time it is issued. Consequently, the identification of stipulations in the determination of administratively available lands and their application is one purpose of the FEIS and the Record of Decision.

(e) Supplemental Stipulations

The standard lease terms can be modified by supplemental stipulations which may be attached to the lease. Additional stipulations can be developed specifically to meet resource concerns that cannot be mitigated by existing stipulations. All stipulations which may be applied are discussed in the FEIS and are listed in Appendix I of the FEIS.

(f) The Decision Process

The decision process discussed above is required by law and is intended to insure multiple use management of National Forest System lands. There is no guarantee that the expensive commitment of exploratory resources will result in a discovery of oil or gas, as only about 15 percent of exploratory wells drilled in the United States result in a paying discovery of oil or gas. Within the Williston Basin, the success rate of exploratory wells is about 35 percent.

Consequently, firms or individuals pursuing oil and gas must be able to plan in advance to most efficiently utilize their exploratory resources. One tactic they rely on to stage commitments of their own resources is the purchase of public land leases, especially in areas of "checkerboard" minerals ownership, such as the National Grasslands, where Federal and private minerals are intermingled. Developers want to know what lands are available for exploration and development, and they want to be assured of continued future opportunities.

Those purchasing leases, however, do not automatically or immediately drill exploratory wells on these leaseholds. In any given time period, exploration firms must match geologic characteristics with the commitment of technology, capital, available equipment, and market conditions in a decision to risk drilling operations. As a result, federal land leases are bought, relinquished, expire, and may be bought and sold again many times without ever being drilled upon.

The federal government is required by law to respond to industry concern and ensure that future activities will neither unduly harm the environment or unduly interfere with other uses of these public lands. A regulatory framework has been created to meet industry's needs while protecting other resources. The regulations include three decision points permitting oil and gas exploration and development. These decisions include public disclosure at the following decision points: (1) the determination of lands administratively available for leasing, (2) the leasing specific lands decision, (3) Application for Permit to Drill (APD), including Surface Use Plan of Operations (SUPO). The process is designed to minimize the risk of making a decision that could lead to undiscovered irreversible or irrevocable environmental impacts. Each decision is based on environmental analysis and disclosure of the probable effects in accord with the National Environmental Policy Act. Appeal procedures for each decision will be in accordance with the agencies' appeal regulations.

D. SCOPE OF THE PROPOSED PROJECT

1. Geographic Scope

(a) Availability Decision

The geographic scope of the analysis area for determination of lands Administratively Available for leasing is identified by the boundaries on Map 1 in the FEIS. The area contains approximately the northern two-thirds of the Little Missouri National Grassland in western North Dakota. The area is located in portions of McKenzie, Billings, and Golden Valley Counties, with an additional four sections of federal minerals underlying private surface in Dunn County. The area includes the McKenzie Ranger District and the northern half of the Medora Ranger District, which are both part of the Custer National Forest. The southern boundary of the EIS study area is a line two miles north

of the boundary between Townships 139 and 138 North. The southern boundary of the EIS study area corresponds approximately with the southern extent of the Bakken Formation, currently the most active oil exploration target in the area.

Included in the EIS analysis area, but excluded from leasing analysis, are the three units of the Theodore Roosevelt National Park (NLMNG FEIS page 1-8, 3-14). These areas were withdrawn from federal oil and gas leasing under the Congressional Act which established the Theodore Roosevelt National Park. Also excluded are lands that are managed by other federal agencies such as the wildlife refuges managed by the US Fish and Wildlife Service, and approximately 7,477 acres managed by the BLM (36 CFR 228.102(b)).

The study area covers 1,298,120 acres. The area is characterized by a patchwork system of land and mineral ownership. The federal government, primarily the Forest Service, manages approximately 770,000 surface acres within the EIS study area and 714,175 acres of mineral estate. The balance of approximately 40 percent is privately owned or owned by the State of North Dakota (LMNG FEIS Table 3.4).

(b) **Leasing Decision for Specific Lands**

The geographic scope of the analysis area for determination of specific lands to lease is identified by the boundaries on Map 1 in the FEIS and Map 1 in this ROD. The leasing decision for specific lands decision is made for all lands that are administratively available in the NLMNG study area. This includes all lands and minerals administered by the Forest Service, regardless of their current lease status. Some of these lands are currently unleased, others are leased and held by production, and others are leased but not held by production.

2. Land and Mineral Ownership Within the Project Area

There are two general categories of ownership pertinent to the discussion of oil and gas leasing within the EIS study area: surface ownership and mineral rights ownership. Because mineral rights are not necessarily tied to the surface ownership, another layer of ownership patterns underlies the surface ownership.

The intersection of the two ownership layers results in numerous possible ownership combinations, which are generalized into four major categories for purposes of this FEIS:

- Federal surface - federal minerals
- Nonfederal surface - federal minerals
- Federal surface - nonfederal minerals
- Nonfederal surface - nonfederal minerals

Each category represents a different level of federal management authority over oil and gas leasing.

The first category is where the surface is administered by the Forest Service and the subsurface mineral estate is federally owned. In this case the federal agencies have maximum control of both the surface and subsurface and can define the terms of oil and gas exploration and development. The lease will contain stipulations in accordance with federal regulations and Forest Service management direction, such as the Forest Plan.

The second category is nonfederal surface-federal minerals, and represents what is termed a split estate, that is, where the surface and mineral rights are owned by different parties. For split estates with nonfederal surface and federal minerals, the Forest Service and BLM share the responsibility for enforcing mineral leasing policies and regulations. Each lease may contain special stipulations in accordance with federal regulations and based on the Forest Plan. The lessee must agree to comply with the lease stipulations prior to the issuance of the lease. The landowners rights are not directly affected by the requirements placed upon the lessee. Prior to entering upon the nonfederal surface, the lessee must attempt to reach an agreement with the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damage payments in lieu of surface protection and reclamation measures.

The third category of federal surface-nonfederal minerals, another type of split estate, can result in oil and gas development over which the federal government has limited control. The federal government, by law, must grant reasonable access and allow development of private minerals. The subsurface estate is the dominant estate. Prior to entering upon the federal surface, the lessee should attempt to reach an agreement with the surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damage payments in lieu of surface protection and reclamation measures. Stipulations in accordance with federal regulations and guidelines, such as the Forest Plan, that apply to the federal surface are considered in determining reasonable access. In most instances, negotiations between the Forest Service and the nonfederal holders of the mineral rights can mitigate many of the adverse environmental effects associated with oil and gas exploration and development.

The fourth category, nonfederal surface-nonfederal mineral rights, are not limited by Forest Service or BLM policies and guidelines. They must, however, comply with other general federal, state, and local laws.

3. Present Leasing Status of the Lands Involved

Of the total 1,298,120 acres within the EIS analysis area, 583,925 acres are underlain by nonfederal minerals and are not affected by this FEIS and ROD. Of the 714,195 acres of federal minerals, 450,747 are currently leased and will be subject to the requirements in this FEIS and ROD only upon expiration of the existing leases. There are currently 263,448 acres of unleased mineral estate subject immediately to this FEIS and ROD (NLMNG FEIS Table 3.8 and page 3-16 for lease status by Management Area).

The federal government does not have the authority to impose new or more restrictive stipulations on existing leases. Stipulations identified in the NLMNG FEIS or in the Forest Plan can only be imposed when new leases are developed. Resource stipulations that result from this FEIS will be incorporated into new leases when the lease package is prepared.

4. Administrative Scope

The analysis in this FEIS includes all of the federal mineral estate, both unleased and leased, in the EIS study area. It is anticipated that up to 182 leases NOT held by production representing about 64,000 acres will expire and become available over the next 5 years. Very little mineral estate leased and held by production is expected to become available over the next 5 years. Many of the wells forecast by the Reasonably Foreseeable Development Scenario (RFDS) (Appendix A of the NLMNG FEIS contains a full explanation of the RFDS) will occur on leased lands held by production. New producing wells will continue to hold these leases until production ceases.

5. Current Oil and Gas Activity on Lands

Located within the Williston Basin (NLMNG FEIS, Map 3A, page 3-18), the EIS study area identified on Map 1 in this document and Map 1 of the NLMNG FEIS is an area with generally high potential for oil and gas development. This area has been producing oil and gas since 1951. Forest monitoring records

indicate that the number of producing oil and gas wells within the analysis areas has remained relatively constant over the period 1980-1990 at about 950.

E. SCOPE OF THE ENVIRONMENTAL ANALYSIS

The analysis process is more fully defined in the FEIS and consists of the analysis supporting a decision on availability and the decision on site-specific leasing.

Forest Service regulations 36 CFR 228.102(c)(2), (3) and (4) direct the Forest Service to: *(2) Identify alternatives to the areas listed in paragraph (c)(1) of this section, including that of not allowing leasing. (3) Project the type/amount of post-leasing activity that is reasonably foreseeable as a consequence of conducting a leasing program consistent with that described in the proposal and for each alternative. (4) Analyze the reasonable foreseeable impacts of post-leasing activity projected under paragraph (c)(3) of this section.*

1. Identify Alternatives

A full array of alternatives were considered in the FEIS as discussed later in this document. The Regional Forester notifies the BLM of the lands that the Forest Service will make available for leasing. The Regional Forester identifies the lands, but is not obligated to consent to leasing just because they are available.

2. Reasonably Foreseeable Development Scenario (RFDS)

One of the tools used in the analysis is the Reasonably Foreseeable Development Scenario (RFDS). The RFDS is briefly discussed as follows. For a full description of the RFDS see Appendix A in the NLMNG FEIS.

Located within the Williston Basin, the EIS study area is an area with generally high potential for oil and gas development. Historical oil and gas activity and projected future development are described in detail in the RFDS, included in the FEIS. Briefly summarized, this area has experienced oil and gas development since 1951, with peak production in the 1970s and early 1980s. Recent horizontal drilling technology has enabled operators to recover oil from the Bakken Formation, which was previously an unlikely production target because the limited thickness of the Bakken Formation and limited permeability have hampered recovery.

The RFDS projects the locations of possibly as many as 500 oil wells to be drilled in the EIS study area over an approximate ten year period. These 500 wells will be drilled on both federal and nonfederal land. This is an average of 50 wells per year, however, development activity is not likely to be consistent on a year-to-year basis over the next 10 years. This rate could be accelerated or delayed should unforeseen developments occur which affect oil exploration and development strategies. The RFDS predicts 423 wells will be producers and the remaining will be dry holes.

In order for the scenario to provide a mechanism to assess impacts in a site-specific manner, specific locations were identified for the 500 wells in the reasonably foreseeable development scenario. The locations are based on three different kinds of minerals development: 1) development on nonfederal minerals, 2) development on existing federal leases, and 3) development on currently unleased federal parcels. Development potential was the first factor considered in the siting of wells. Well locations were then modified as necessary to meet other objectives. The locations of most of the wells in the first development period are based on staked locations, proposed well sites listed in the BLM data base, and the locations of parcels identified by industry and the BLM as high priority for leasing. Wells predicted for subsequent years are located on the basis of geological potential for development and as infill and extension drilling in and around oil fields with established Bakken production. Areas where seismic exploration has been concentrated during the past five years are also predicted to attract exploratory and

development drilling. A maximum of two new wells per section has been predicted, anticipating a 320 acre spacing for horizontal Bakken production.

The constraints of the standard lease terms were applied to the well locations on lands with federal minerals and existing leases. As explained in more detail in Chapter 3 of the FEIS, activity on existing leases is limited by the terms of the existing lease. No new lease stipulations can be imposed on existing leases as a result of this EIS, although it is possible that operators may voluntarily consent to some operational changes. It is important to note that such development is subject to several restrictions, including relocation up to 200 meters and/or timing restrictions up to 60 days. Under standard lease terms, the lessee is required to cease any operations that would result in the destruction of threatened or endangered species or objects of historic or scientific interest. With regard to this requirement, no wells were placed within a quarter mile of eagle and falcon nests. The locations of cultural resources eligible to the National Register of Historical Places (NRHP) are protected under law and, therefore, could not be used in this analysis. However, for all alternatives, compliance with Section 106 of the National Historic Preservation Act (NHPA) is required before ground-disturbing activities can take place. The constraints of the standard lease terms do not apply to nonfederal minerals activity, and actual well locations for these activities may be less restrained than displayed in the reasonably foreseeable development scenario.

Forest monitoring records indicate that the number of producing oil and gas wells within the analysis areas has remained relatively constant over the period 1980-1990 at about 950. This means that for every new well that comes on line another well is plugged and abandoned and the site and access reclaimed.

The Bakken Formation and associated oil fields are projected to be the main targets for oil exploration and development over the next few years. The longevity of horizontal Bakken production is unknown at present. There is a possibility that the Bakken production will "play out" in less time than other production in the area, allowing reclamation to proceed at an earlier date for wells that produce only from the Bakken Formation.

In general, when a well is developed that is economically feasible, the area needed to continue production can be expected to be committed to that use for 30 to 50 years. Over the next 10 years many existing and some newly-drilled oil wells will no longer be profitable to operate. These wells will be plugged and the sites abandoned and reclaimed. In some cases, whole oil fields may be abandoned and reclaimed. It was assumed in the reasonably foreseeable development scenario that two fields in the EIS study area, Middle Creek and Little Tank, will be totally abandoned by the year 2000 based on a study by the North Dakota Geologic Survey.

3. Analysis of Impacts

The impacts associated with oil and gas leasing was assessed by first identifying the surface uses that would be associated with the wells predicted by the RFDS. Those uses were then analyzed by various methods to predict the effects on the natural and cultural resources of the NLMNG.

(a) Surface Use Forecast

Exploration and development of the oil and gas resources of the EIS study area would require construction of drill pads, roads, tank batteries, power lines, and pipelines. Anticipated locations of roads and drill pads were estimated to facilitate analysis of site-specific impacts (NLMNG FEIS page 3-38 discusses transportation systems). These locations are valid for analysis purposes, but are not the only locations available. Site specific analysis at the APD stage will determine actual locations. Anticipated road locations required to access drilling sites are also displayed on the maps included with the FEIS (Map 10 of the NLMNG FEIS).

Each well drilled requires construction of a level pad of two to five acres. The pad serves as a staging area for setting up the rig and contains the reserve pit, storage tanks and other equipment and installations necessary for drilling. Crew quarters may also be temporarily located on the pad. When the well is completed, the portions of the pad not required for ongoing operations are recontoured and revegetated. If the well is plugged and abandoned, the entire pad and access road are reclaimed. In some cases, a new well may be drilled on an existing pad, although this may require disturbance of previously reclaimed areas. Few new wells in the EIS study area are expected to be drilled on existing pads, as most of the development would occur in areas where there are no existing pads (NLMNG FEIS, page 3-40).

Roads are required for oil and gas development to allow access for drilling and ongoing operations and maintenance (see Maps 2, 3, 4, 5, North and South). Individual roads are designed and constructed to standards appropriate to the type and frequency of traffic expected. Roads that lead to wells that are abandoned are also usually closed and reclaimed.

Electrical power for producing well operations could be provided by either a powerline or on-site diesel generator. A powerline is usually preferred for most sites because of the maintenance costs, noise and air pollution problems associated with on-site generators. Generators may be the most economical option at remote sites far from the existing power grid.

If a well produces natural and/or hydrogen sulfide gas, the gas must be piped to a central collection system or flared on-site. Produced water must also be disposed. Bakken development has historically produced natural gas but no hydrogen sulfide and relatively small quantities of water (NLMNG FEIS, page 4-57). Flaring is often done while the well is being completed and until a pipeline can be connected. Produced water (and oil) must either be piped away or stored in tank batteries on-site for periodic removal by truck. All produced water in North Dakota is required to be reinjected.

Wells in outlying areas may begin with on-site electrical generation, flaring and oil storage. As development advances, these wells could be tied into existing power and pipeline systems. Based on practicality and past practice, it is anticipated that new power and pipe lines would be routed along new and existing road corridors.

(b) Effect Determination

In addition to mapping the projected well locations, natural resources indicators such as golden eagle nests, sharp-tailed grouse dancing grounds, prairie falcon nests, prairie dog colonies, wood draws and slopes steeper than 40% were identified and mapped. The Custer Forest management areas, the land ownership and lease status, and current road and well locations were also mapped. (DEIS Maps 7, 8, 9 and 10) A geographic information system (GIS) was developed based on the maps and the RFDS. Some data bases, such as cultural, were not presented in the DEIS due to the sensitivity of the data.

Specialists identified areas with potential multiple uses based on the GIS and the maps. In those areas specialists then analyzed the intensity of one use versus another to develop the compatibility of the uses and the effects of leasing and subsequent development on other resources. Resources such as air were analyzed through models.

II DECISION

A. FOREST SERVICE DECISIONS

Based on information analyzed and disclosed in the FEIS, I believe the array of alternatives adequately address existing laws, regulations, the Custer Forest Plan direction, and responds to public comments. In my opinion, none of the alternatives of themselves provide the best overall combination of available/not available and lease/not lease decisions; however, the decision space is within the full range of alternatives.

I have selected portions of two alternatives (1B and 1C) for the administratively available decision. In doing this I am making 24,931 acres of the federal mineral estate not administratively available for leasing; and of the 689,264 acres of federal mineral estate that are available, 673,030 acres are authorized for lease and 16,234 acres are not authorized for lease. Table 1 shows the decisions for Administrative Availability 228.102(d) and Lease Authorization 228.102(e).

Table 1. Summary of the Decision

Mgmt Area	Name of Area	Availability Decision - 228.102(d)		Specific Leasing Authorization 228.102(e)	
		Available	Not Available	Lease	No Lease
B		A		L	
C	Dutchman's Barn Wannigan Elkhorn Whitetail Hanks Gully Bennett Cottonwood Lone Butte Burnt Creek	A A A A A A A	NA	L L L L L L	NL
D		A		L	
E		A		L	
F		A		L	
J	Horse Creek Long X Divide Lone Butte Bennett Cottonwood Twin Buttes	A A A	NA NA	L	NL NL
K	Blue Buttes		NA		
L		A		L	
P		A		L	

Note:
 A - Available
 NA - Not Available
 L - Lease
 NL - No Lease

1. Availability Decision - 36 CFR 228.102(d)

The decision being made is which lands, if any, in the Northern Little Missouri National Grassland (NLMNG) on the Custer National Forest will be administratively available for oil and gas leasing. Under 36 CFR 228.102(d) the regulations state "Upon completion of the leasing analysis, the Regional Forester shall promptly notify the BLM as to the areas or Forest-wide leasing decisions that have been made; that is, identify lands which have been found administratively available for leasing." Table 2 is a summary of the acres of Lands Administratively Available for Leasing Decision, 36 CFR 228.102(d).

Table 2. Decision Summary By Acres

Mgmt Area	Name of Area	Total Federal Estate Acres	Unleased Acres	Leased Held By Production Areas	Leased Not Held By Production	Acres Available 228.102(d)	Acres Authorized For Lease 228.102(e)	NSO Acres
B		452,823	189,232	137,267	126,344	452,823	452,823	29,795
C	Dutchmans Barn Wannegan Elkhorn Whitetail Hanks Gully Bennett Cottonwood Lone Butte Burnt Creek	773 2,375 2,019 2,910 331 2,947 1,978 5,166	0 677 1,245 553 492 1,208 1,342 3,850	49 1,696 221 0 2,418 0 2,910 366	724 0 2,019 0 0 331 331 846	0 2,375 2,019 2,910 331 2,947 0 5,166	0 2,375 2,019 2,910 331 2,947 0 5,166	0 2,375 2,019 2,910 331 2,947 0 5,166
D		15,262	6,938	3,453	4,871	15,262	15,262	1,990
E		177,739	23,757	147,484	6,498	177,739	177,739	4,920
F		228	189	6	33	228	228	228
J	Horse Creek Long X Divide Lone Butte Bennett Cottonwood Twin Buttes	7,604 9,563 6,652 10,939 7,638	7,265 7,703 4,174 4,611 7,838	319 0 2,478 5,861 0	0 1,860 0 467 0	7,604 0 6,652 10,939 0	0 0 0 10,939 0	0 0 0 10,939 0
K	Blue Buttes	6,737	2,907	3,830	0	0	0	0
L		135	0	135	0	135	135	135
P		156	0	0	156	156	156	156
	TOTALS	714,195	263,448	308,727	142,020	689,264	673,030	63,911 ¹
N		43,527 ²	16,998	0	0			all NSO

¹ This NSO acreage represents 9 percent of the Total Federal Mineral Estate Acreage.² Acreage of woody draws (Mgmt. Area N) is included in acres of other Management Areas.

This table does not include 7,477 acres of BLM administered lands, 3,797 acres of Riverbed within the Study Area or 2,538 acres of land within the Study Area but not within the LMNG.

Source: Tables 3.4, 3.8, 3.10, 3.11 FEIS

2. Rationale for the Availability Decision

In making the decisions on which lands are ADMINISTRATIVELY AVAILABLE FOR LEASING or NOT ADMINISTRATIVELY AVAILABLE for leasing, I considered:

- Decisions and direction established in the Custer National Forest Land Management Plan.
- The public comments received during development of the Northern Little Missouri National Grasslands EIS.
- The analysis of the environmental, social, and economic effects as displayed in the FEIS (NLMNG FEIS page 4-70).

The decisions of NOT ADMINISTRATIVELY AVAILABLE or ADMINISTRATIVELY AVAILABLE will apply to currently leased lands when such leases expire or terminate, as well as to lands that are currently unleased. My rationale for selecting a combination of Alternative 1B and 1C follows:

On June 10, 1987, the Custer Forest Plan and accompanying EIS were approved. This long-range, integrated land and resource management plan provides for integrated guidance for all natural resource management activities as required by the National Forest Management Act of 1976. The Forest Plan decisions were based on the analysis and alternative displayed in the Final Environmental Impact Statement. The Forest Plan established goals and management direction for the entire Forest. This FEIS expands upon the Forest Plan selected alternative by considering additional alternatives not considered in the Forest Plan and discloses, in a site-specific manner, the effects of oil and gas leasing, exploration, development, abandonment, and reclamation within the study area.

Many additional laws and executive orders all contribute to the analysis process of this FEIS. These include, but are not limited to: The Endangered Species Act of 1973, The Clean Water Act, The Antiquities Act, and The American Indian Religious Freedom Act. The following is my rationale for the availability decision by Forest Plan Management Area:

Management Areas B, D, E, F, L, and P

The goals given in the Forest Plan for each of these individual management areas is as follows:

Management Area B - To provide for continuation of livestock grazing, implementation of intensive range management systems, and the facilitation of minerals and energy development with consideration of other resource needs. In areas not considered key for wildlife, adverse impacts to the wildlife habitat will be mitigated where feasible, but not to the exclusion of range and mineral/energy management and development activities. In key wildlife areas, the habitat may not be adversely impacted from development activities.

Management Area D - Maintain or improve long-term diversity and quality of habitat for elk, bighorn sheep, black bear, and moose, as well as accommodate oil and gas operations, livestock grazing, and timber harvest.

Management Area E - Encourage and facilitate the exploration, development, and production of mineral and energy resources. Other resources will be considered and impacts will be mitigated to the extent possible through standard operating procedures and, on a limited basis, through special lease stipulations necessary to manage key surface resources. Energy/mineral development will not be precluded by these resource concerns within legal constraints.

Management Area F - Provide a spectrum of recreation opportunities and settings in and around developed sites and the access corridors to the sites in the categories of semiprimitive motorized, semiprimitive non-motorized, and roaded natural appearing and rural.

Management Area L - To provide an opportunity for research, study, observation, and monitoring of natural-occurring ecological processes. They will be protected against the activities which directly or indirectly modify ecological processes.

Management Area P - Provide adequate facilities for forest administration.

My decision reaffirms the Forest Plan of making all the lands within Management Areas B, D, E, F, L, and P ADMINISTRATIVELY AVAILABLE for leasing. My decision for these management areas recognizes the potential and importance of the Williston Basin for oil and gas production. These lands are the most productive sources of oil and gas in the United States administered by the Forest Service. To severely restrict energy resource development in this oil and gas rich area would not be responsive to the President's objective and Forest Service policy to encourage responsible development of oil and gas resources on public lands. The other resources, such as water, air, soil, cultural resources, wildlife, and vegetation will be protected with application of appropriate stipulations as disclosed in the NLMNG FEIS, Table 2.1. Public input to the DEIS focused mainly on specific areas as addressed in the following section.

Management Area C

The Forest Plan goal is to manage this area for selected species for the optimum quality and diversity the lands can offer.

Dutchman's Barn: After studying the analysis in the FEIS and related public input, I have decided to change the availability decision in the Forest Plan for the Dutchman's Barn area. The area is NOT ADMINISTRATIVELY AVAILABLE for oil and gas leasing. Based on site-specific analysis, and public input, I decided that the unique surface resource values of this area are more important than its value for oil and gas production. The Dutchman's Barn area is approximately 3,658 acres; however, 79 percent of the area is privately owned, 773 acres are federal. The area is used by an estimated 20 to 25 bighorn sheep. The North Dakota Game and Fish Department have a 250 acre enclosure on private land adjacent to the 773 acres of federal ownership. The enclosure is used annually for holding bighorn sheep that are transplanted to nearby sites. The area is adjacent to the west side of the South Unit of TRNP. The area has moderate potential for oil development of the Heath and Madison Formations and is outside the area of the Bakken Formation. Producing wells are located to the east, north, and west of this area. My decision on making the federal lands NOT AVAILABLE is not in agreement with the Forest Plan, and an amendment to the Forest Plan is required. Because of the significance of this area for bighorn sheep, I feel this area should not be available for leasing in the future. The area will provide the sheep an area free from disturbance from existing oil and gas activities. Making the area NOT AVAILABLE also complements the adjacent enclosure used for holding bighorn sheep awaiting transplant to other areas. Although much of the adjacent area is private and all the adjacent federal lands are leased, I believe that long-term management of this area for bighorn sheep habitat is in the best interest of the public.

There are some problems with making the area not available in that all of the area is currently leased. Forty nine acres are held by production, and 724 acres are leased and not held by production. Consequently, there is still an opportunity for industry to develop the existing leases if they so desire. However, once the leases expire, these areas will not be available for future leasing.

Within Management Area C, Wannagan, Elkhorn, Whitetail, Hanks Gully, Bennett Cottonwood, Lone Butte, and Burnt Creek are administratively available for leasing. These areas have a moderate - high potential for oil and gas production. Making these areas available for leasing is consistent with the Forest Plan.

Management Area J

The Forest Plan goal for Management Area J is to maintain the areas in a low development setting and to let natural processes play their role with an intent to protect the areas from disturbance associated with oil and gas development.

Horse Creek: Horse Creek is ADMINISTRATIVELY AVAILABLE for leasing. The area is mostly rolling prairie and has few distinctive topographic features. The area lacks a variety of vegetative classes and is predominately grasslands. Recreation use is low and limited to driving for pleasure, wildlife viewing, and hunting. There are no existing or proposed trails in the area. There are no existing oil wells in the area. The potential for oil and gas production is moderate, and the potential for drainage appears to be low from private wells adjacent to the eastern edge of the area. Currently, 7,285 acres are unleased and 319 acres are leased and held by production.

Long X Divide: After studying the analysis in this FEIS and related public input, I have decided to change the availability decision in the Forest Plan for the Long X Divide area. The area is NOT ADMINISTRATIVELY AVAILABLE for oil and gas leasing. Based on more site-specific analysis and public input, I decided that the unique surface resource values of this area are more important than its value for oil and gas production. Long X Divide is adjacent to the wilderness portion of the North Unit of Theodore Roosevelt National Park, provides for dispersed recreation, has unique badlands topography, offers outstanding scenic views, and provides key wildlife habitat. Access into Long X Divide is limited to two, low standard roads. This area had become increasingly popular with user groups, especially during spring and fall. The area provides cross-country hiking and horse riding access into TRNP. The Long X Divide area has an existing trail in the eastern portion going from Summit Campground north to the CCC campsite. The area also has potential for additional trail development. Of the 9,563 total acres, 7,703 acres are not leased and the remaining 1,860 acres are not held by production and the leases will expire by 1996. Eighty-six percent of the area has a low development potential and 14 percent has high potential. Overall, there is a low potential for lost royalties from not drilling and from drainage.

In making the NOT ADMINISTRATIVELY AVAILABLE decision for Long X Divide, I am recognizing the unique existing ecological condition of this area. This decision is not consistent with the Forest Plan, and an amendment will be made to change the Forest Plan. I believe that making this area NOT ADMINISTRATIVELY AVAILABLE based on the biological, ecological, and recreational value is more appropriate than the recommendation made in the Forest Plan. The NOT ADMINISTRATIVELY AVAILABLE decision applies immediately to the 7,703 unleased acres. The leased areas of Long X Divide, 1,860 acres, will be NOT ADMINISTRATIVELY AVAILABLE when the leases expire.

Lone Butte: Lone Butte is ADMINISTRATIVELY AVAILABLE for leasing. This decision is consistent with the Custer Forest Plan. This area includes 6,652 acres, of which 2,478 (37 percent) are currently leased with no production. The area has a moderate potential for oil and gas production. I believe that making the area available provides the necessary balance for protecting the habitat of bighorn sheep, elk, and grouse, and for providing opportunities for oil and gas development.

Bennett Cottonwood: Bennett Cottonwood is ADMINISTRATIVELY AVAILABLE for leasing. This area includes 10,939 acres, of which 6,328 (58 percent) are currently leased. The area has a moderate - high potential for oil and gas development. Making these lands available is consistent with Forest Plan direction for management of low development areas and wildlife. Managing these lands for low development has been compromised by the need for access and development of existing leases and due to limited control of privately owned minerals under Federal Surface ownership.

Twin Buttes: After studying the analysis in the FEIS and related public input, I have decided to change the availability decision in the Forest Plan for the Twin Buttes area. The area is NOT ADMINISTRATIVELY AVAILABLE for oil and gas leasing. Based on more site-specific analysis and public input, I decided that

the unique surface resource values of this area are more important than its value for oil and gas production. The Twin Buttes area has unique badlands topography, offers outstanding scenic views, and provides key wildlife habitat. All 7,838 acres are unleased. The public strongly supported no oil and gas leasing in this area in response to the Forest Plan, and because there are no leases held by production, it is an area where development can be controlled. The area has limited access, and, therefore, meets the management objective for a low development area. Forest Service Road 726 follows along the southeast corner. The only internal access is in the northwest corner by an unimproved road used primarily by grazing permittees. There are no plans for additional access at this time. The area receives seasonal hunting use. The Twin Buttes area has a low potential for oil and gas development and is outside of the Bakken Formation. The potential for lost royalties is low.

In making the NOT ADMINISTRATIVELY AVAILABLE decision for Twin Buttes, I am recognizing the unique existing ecological condition of this area and the management decisions needed to carry out the objectives of the Forest Plan. I believe that managing this area for its biological, ecological, and recreational values is more important than its potential for oil and gas production. The NOT ADMINISTRATIVELY AVAILABLE decision applies immediately to the 7,838 unleased acres.

Management Area K

Blue Buttes: This area is NOT ADMINISTRATIVELY AVAILABLE for oil and gas leasing. Management Area K consists of the Blue Buttes. Included in the Blue Buttes are significant religious sites for the Hidatsa Tribe. This area is recognized as the birthplace of the Low Hat Clan and is used by the clan for the practice of traditional religious activities. The Low Hat Clan name for this area is Thunderbird Nest Butte. Blue Buttes also include fasting sites for the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara. The Forest Plan goal is to protect the cultural and archeological values and if conflicts cannot be mitigated, to resolve them in favor of these values. Existing leases occur on 3,830 acres primarily on the western half of the Blue Buttes area. These leases are held by production and are not expected to be released in the near future. Current mitigation consists of timing restrictions of geophysical operations to minimize conflicts with traditional tribal uses. The timing restrictions have been acceptable but have compromised some tribal values. With over half of the Blue Buttes under lease, long-term protection of the cultural and religious values are uncertain. In making the not administratively availability decision, I am recognizing the relationship of the Forest Plan goals to the Low Hat Clan of the Hidatsa Tribe and the significance of Blue Buttes as an important cultural and religious site. I have also considered the potential for lost royalties by not leasing the area and from drainage lost from possible development from adjacent private land. The geology of the area and the location of existing wells indicate a moderate to high potential for oil production from the unleased lands. The NOT AVAILABLE decision applies immediately to the unleased 2,907 acres and to the existing leases if they should expire. The Forest Plan will be amended to reflect this change.

3. Leasing Decision for Specific Lands - 36 CFR 228.102(e)

Based on the information disclosed in the FEIS, I have selected portions of Alternatives 1B and 1C for the leasing decision for specific lands. (See Table 1, Summary of the Decision)

Under my selected alternative, all lands administratively available in Management Area B, D, E, F, L and P are authorized for lease. There are a variety of lease stipulations that will be applied to some of these areas to protect surface resources.

Management Area C: Under this alternative, six of the eight areas are leased with a No Surface Occupancy (NSO) stipulation. Lone Butte is NOT to be leased, and Dutchman's Barn is not available.

Management Area J: Bennett-Cottonwood is available for leasing with a No Surface Occupancy (NSO) stipulation. Horse Creek and Lone Butte are not to be leased. Long X Divide and Twin Buttes are NOT ADMINISTRATIVELY AVAILABLE.

Viewsheds adjacent to TRNP are leased with a NSO and summer timing exploration stipulation where needed to meet visual objectives. Additional Federal lands, unleased and leased, within the retention area would be stipulated with a NSO. This decision requires a site specific amendment to the Forest Plan. Visual areas along the Little Missouri River are leased with a NSO stipulation.

In the first decision, 689,264 acres are administratively available for leasing. In the second decision, I am authorizing the BLM to offer for lease 673,030 acres or 97.7 percent of the available acres. The areas not authorized for lease at this time include 1,978 acres of Lone Butte in Management Area C, 6,652 acres of Lone Butte in Management Area J, and 7,604 acres of Horse Creek in Management Area J. Table 1 displays the Leasing decision and Table 2 displays the total acres leased and those areas to be leased with an NSO stipulation. The following is my rationale by Forest Plan Management area:

4. Rationale for the Leasing Decision for Specific Lands

The regulations under 228.102(e) allow the Forest Service to authorize the BLM to offer SPECIFIC lands for lease. The regulations do not obligate the Forest Service to offer all administratively available lands for lease. The options to the Forest Service include; lease all AVAILABLE lands, or NOT lease any of the available lands, or to lease specific lands at this time.

Management Areas B, D, E, F, L, and P

My decision to LEASE the lands in the above listed management areas is based on a number of factors. The site-specific analysis conducted through the FEIS identifies the on-the-ground location of critical areas to be protected such as canyon complexes and woody draws. Stipulations to minimize adverse environmental effects to these areas have been identified and will be included as a part of each individual lease as needed. Public input in general was not opposed to leasing of these lands. The lands included within these management areas are not the high interest areas for protection when compared to the areas listed below. My decision for these management areas recognizes the potential and importance of the Williston Basin for oil and gas production. These lands are the most productive source of oil and gas in the United States administered by the Forest Service. To severely restrict energy resource development in this oil and gas rich area would not be responsive to the policy of developing oil and gas resources on public lands.

Management Area C

Wannagan: This area was allocated to Management Area C because it contains bighorn sheep habitat. The current population is about 17 bighorns. There are 2,375 acres of federal mineral estate in this area. Of the federal mineral estate, 677 acres are unleased, and 1,698 acres leased and held by production. The area has moderate oil and gas potential in the Madison, Duperow, and Red River Formations. The area has a low-moderate potential for Bakken Formation production. One well was projected in this area in the RFDS (See Table 4.2 in the FEIS). There is one producing well in the area located on a Federal lease (See Map AA.11). Based on the potential for oil and gas development, the high surface resource values, and the minerals ownership pattern in this area, I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulation. See page 4-8 of the NLMNG FEIS and Table 4.1 for additional information.

Elkhorn: This area was allocated to Management Area C because it contains potential bighorn sheep habitat. There are no bighorn sheep in the area at this time. There are 2,019 acres of federal mineral estate. Of the Federal mineral estate, 1,245 are un-leased, 553 acres are leased and held by production, and 221 acres are leased and not held by production. The area has high oil and gas potential in the Bakken Formation. Five wells were projected in this area in the RFDS (See Table 4.2 in the FEIS). There is one producing well adjacent to

the area, several other producing wells in the general area, and a considerable amount of interest in the area by the oil and gas industry. Based on the potential for oil and gas development and the surface resource values, I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulation. See page 4-8 of the NLMNG FEIS and Table 4.1 for additional information.

Whitetail: This area was allocated to Management Area C because it contains potential bighorn sheep habitat. There are no bighorn sheep in the area at this time. There are 2,910 acres of federal mineral estate. Of the Federal mineral estate, 492 acres are un-leased, and 2,418 acres are leased and held by production. The area has high oil and gas potential in the Madison, Duperou, Madison, and Bakken Formations. Nine wells were projected in this area in the RFDS (See Table 4.2 and Map AA.8 in the FEIS). There are three producing wells in the area, and 19 producing wells within one mile of the area. Interest in the area by industry is high and additional wells adjacent to the area are expected. Based on the potential for oil and gas development, the large acreage of leases held by production, and the surface resource values, I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulations.

Hanks Gully: This area was allocated to Management Area C because it contains bighorn sheep habitat. There are an estimated 50 bighorn sheep in the area at this time. There are 331 acres of federal mineral estate in the area, all of which is held by production. The area has high oil and gas potential in the Bakken Formation. Two wells were projected in this area in the RFDS (See Table 4.2 in the FEIS and Map AA.8). There are three producing wells adjacent to the area and several other producing wells within a mile or two. Interest in this area by industry is high. Based on the potential for oil and gas development, the entire area being leased and held by production, and the surface resource values, I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulation. See page 4-7 of the NLMNG FEIS and Table 4.1 for additional information.

Bennett Cottonwood: This area was allocated to Management Area C because it contains bighorn sheep habitat. There are an estimated 16 bighorn sheep in this Management Area and the adjacent Management Area J. There are 2,947 acres of federal mineral estate in the area. Of the federal mineral estate, 1,208 acres are unleased and the remaining 1,739 acres are held by production. The area is outside of the production zone for the Bakken Formation but has a moderate-high potential for production in the Madison and Duperou Formations. One new well was projected in this area in the RFDS (See Table 4.2 in the FEIS and Map AA.7). There are two producing wells within the Management Area C and J complex. There are a number of producing wells adjacent to the area. Interest in this area by industry is high and there are several APD's pending in the area. Based on the potential for oil and gas development, the amount of the area leased and held by production, and the surface resource values, I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulation. See page 4-7 of the NLMNG FEIS and Table 4.1 for additional information.

Burnt Creek: This area was allocated to Management Area C because it contains elk habitat. There are an estimated 150 elk in and around the area. This management area contains the core area key habitat for these elk. This herd is expanding, and as the population increases some animals leave and find other areas that fulfill their needs for habitat. There are 5,166 acres of federal mineral estate in the area. Of the federal mineral estate, 3,850 acres are unleased, 470 acres leased and held by production, and 846 acres leased and not held by production. The area has moderate to high oil and gas potential for production in the Bakken Formation. There is one producing well within the area, two wells were projected in this area in the RFDS, and there are two producing wells within one mile of the area (See Table 4.2 in the FEIS and Map AA.2). Interest in this area by industry is high. Based on the potential for oil and gas development and the surface resource values I have decided to allow the BLM to LEASE this area with a 100 percent No Surface Occupancy Stipulation. See page 4-7 of the NLMNG FEIS and Table 4.1 for additional information.

Management Area J

Horse Creek: The area is mostly rolling prairie and has few distinctive topographic features. The area lacks a variety of vegetative classes and is predominately grasslands. Recreation use is low and limited to driving for pleasure/wildlife viewing from the existing roads. There are no existing or proposed trails in the area. There are no existing oil wells in the area. The potential for oil and gas production is moderate and the potential for drainage is low-moderate from private wells on the eastern edge. Currently 7,285 acres are unleased and 319 acres are leased and held by production (Map AA.3 in the FEIS). Because this is an area where there has been little development and most of the area is unencumbered by existing leases, it is an area that can be protected from development, and I have decided to NOT AUTHORIZE LEASING at this time even though it is available.

Lone Butte: This area includes 1,978 acres in Management Area C and 6,652 acres in Management Area J. The Lone Butte area is southeast of the North Unit of the TRNP and is in the eastern portion of the analysis area. The C and J Management Areas adjoin each other, therefore the area was considered in its entirety when making the decision of NOT TO AUTHORIZE LEASING (Map AA.6 in the FEIS).

In the central portion, the C area has a Forest Plan objective of a management emphasis of bighorn sheep. The steep canyonlands provide suitable habitat and security for sheep. Approximately 30 to 40 bighorn sheep live in the area. The sheep also move into the surrounding J area and occasionally Management Areas B and E. Bighorn sheep have been transplanted into and out of the Lone Butte area. Information on bighorn sheep populations and the effects from oil and gas activities is still incomplete. The J area has a Forest Plan management emphasis for low development. The unroaded quality of the area has been changed by two-track roads used for seismic work and for the installation of range improvements. Recreation use is low and consists of occasional hunting, wildlife viewing (bighorn sheep) and driving for pleasure.

Of the total 8,630 acres for Lone Buttes, 3,114 acres are leased and held by production (Table 4.2 in the FEIS). As indicated by the acres under lease, the Lone Butte area has moderate oil and gas potential. The area is within the Madison pool and in the deep portion of the Bakken Formation. Although no wells were projected by the RFDS the potential exists for drainage by private wells.

In making the decision of NOT to authorize Lone Buttes for lease, I considered the probability of oil industry interest in the near future and the low development nature of the area. In addition, the J area in Lone Butte has approximately 40 percent of the area leased and managing the area for the intent of leaving little permanent evidence of human use would be difficult. In summary, I believe the best decision is to Not Authorize the Lone Butte area for lease at this time. This decision, like all decisions made in this ROD, is subject to change based on new information or circumstances. See page 4-7 of the NLMNG FEIS and Table 4.1 for additional information.

I believe we must continue monitoring and evaluating both Horse Creek and Lone Butte for long-term potential oil and gas development, recreational use as a low development area, and the use of Lone Butte for key bighorn sheep habitat. I realize that a considerable acreage is leased and held by production, and that development could occur on these leases. However, based on the wildlife habitat values, and the value of the area for recreation, I feel it is appropriate to NOT ALLOW LEASING at this time. However, development could occur on the leases that are held by production and impact this area.

Bennett Cottonwood: Bennett Cottonwood IS AUTHORIZED FOR LEASING with 100 percent NSO stipulation. This area includes 10,939 acres of which 6,328 (58 percent) are currently leased (Map AA.7 in the FEIS). The area has a moderate - high potential for oil and gas development. Leasing these lands with NSO stipulations is consistent with Forest Plan direction for management of low development areas and wildlife. Managing these lands for low development has been compromised by the need for access and development of existing leases and due to limited control of privately owned minerals under Federal surface ownership. I believe that leasing these lands with NSO stipulations is consistent with the existing low development situation. This decision

provides sufficient opportunities for managing the area with low development objectives and is consistent with the Forest Plan. See page 4-7 of the NLMNG FEIS and Table 4.1 for additional information.

B. FOREST PLAN AMENDMENTS

Amendments are included in Appendix A of this document. The topic of each amendment is summarized as follows:

Based on information disclosed in the FEIS and the alternative selected I am making several nonsignificant amendments to the Forest Plan.

Amendment Number 9, Administratively Available: Will change the availability decision for four areas from "administratively available" to "not administratively available". The four areas are; Dutchman's Barn, Long X Divide, Twin Buttes, and Blue Buttes.

Amendment Number 10, Visual Resources: In the development of the NLMNG FEIS additional analysis of visual resources was conducted around Theodore Roosevelt National Park. Based on the analysis, I am amending the Forest Plan by changing the visual quality objective from "partial retention" to "retention" for certain areas surrounding the Park. The areas are available for oil and gas leasing and will be leased with a "No Surface Occupancy Stipulation" as stated in the Record of Decision for the NLMNG.

Amendment Number 11, Ferruginous hawk (*Buteo regalis*): Wildlife Appendix VII in the Forest Plan does not include the Ferruginous hawk as a sensitive species for North Dakota. I am adding the Ferruginous hawk to the North Dakota list (Map 7 and 9 of the FEIS).

Amendment Number 12, Prairie grouse: In the Forest Plan the dates for protection of grouse dancing grounds is 3/1 to 4/15. Based on on-the-ground observations these sites are sometimes active later in the year than these dates show. I am changing the dates for protection of dancing grounds to 4/30 instead of 4/15.

Amendment Number 13, Woody Draws, Management Area N: I am making two changes to the management standards and guidelines for this management area. The first is under Recreation, item f. This states that the visual quality objective for these areas is retention. I am deleting this requirement as it is not needed because I have decided to protect all woody draws by requiring a No Surface Occupancy Stipulation on this management area. The other change I am making is under Minerals and Geology, Item C states: "When a lease application is received, or existing lease expire or terminate, a Limited Surface Use Stipulation will be applied to minimize surface disturbances". Based on the sites specific analysis included in the EIS, I am changing this for the area included in this FEIS based on the site-specific analysis and replacing it with "No Surface Occupancy Stipulation" (NSO).

These amendments do not alter any of the long-term relationships between the levels of goods and services projected by the Forest Plan. Therefore, these amendments are non-significant under National Forest Management Act (36 CFR 219.10(f)), and Forest Service Manual 1922.51.

C. BLM DECISION

Based on the joint analysis conducted by the Forest Service and BLM, and documented in the Final EIS, the BLM hereby makes the following finding and decision:

- As required by regulation at 43 CFR 3101.7-2(c), the BLM has reviewed the rationale for the Regional Forester's decision to consent to leasing of specific National Forest System lands subject to applicable stipulations and finds that decision to be reasonable.

- Said Forest Service decision to consent to leasing, having been found reasonable, the BLM will offer lands for lease and will issue leases for lands within the NLMNG in accordance with that decision.

Rationale for BLM Decision:

The regulation at 43 CFR 3101.7-2(c), which pertains to leasing of Federal lands administered by an agency outside of the Department of the Interior requires BLM to review all recommendations and to accept all reasonable recommendations of the surface managing agency. In the present case, such recommendations involve decisions being made by the Regional Forester with respect to administrative availability, authorization of specific lands for leasing, and stipulations and conditions of approval needed to protect surface and subsurface resources within the NLMNG. The BLM portion of the ROD decision is to determine, for those lands where consent to lease has been granted, if the Forest Service recommendations and decision are reasonable.

The BLM has participated as a joint lead agency in the analysis and documentation leading to the Forest Service decisions and recommendations. As a joint lead agency, the BLM has shared responsibility for compliance with the National Environmental Policy Act, Council on Environmental Quality regulations, and related requirements including public involvement and consultation with other agencies and organizations.

The BLM participation as a joint lead agency has included the use of BLM staff in conducting interdisciplinary analysis and preparing needed documentation. It also has included the use of BLM staff and managers in reviewing work accomplished by the Forest Service, including proposed decisions, recommendations and alternatives, and in providing a level of oversight sufficient to determine the reasonableness of the consent decision being made at this time.

The BLM finds the Forest Service consent decision made herein to be reasonable. It also reflects consideration of public, other agency, and interdisciplinary team input obtained during the analysis and decision making processes. Finally, it complies with applicable laws, regulations, and policies.

III. PUBLIC INVOLVEMENT

A. INITIAL SCOPING, FORMULATION OF ISSUES, CONCERNs AND OPPORTUNITIES

Issues of concern related to the NLMNG were formulated through analysis of comments received during the public involvement process by the Interdisciplinary Team (ID Team). A news release was sent out on October 24, 1989, outlining the proposed project. A scoping letter was sent out to potential interested publics defining the preliminary issues, concerns and opportunities developed by the ID Team. A second public notice was sent out in November of 1989. For additional information on input to the DEIS see Chapter 5 of the FEIS, or the unbound appendix responding to individual letters in the Planning Record located at the Forest Supervisors Office Located in Billings, Montana. A series of public open house meetings were held in Watford City, Bismarck, Fargo and Dickinson North Dakota in February of 1990. A North Dakota work group was formed early in the process to provide input to the ID Team from a broad cross section of interests including; the oil and gas industry, conservation/environmental interests, state and local government and local landowners. Additional public information letters were sent out in July and September of 1990. The issues resulting from the public involvement are described below. For additional information on the public involvement process refer to page 2-1 of the NLMNG FEIS.

- The effects of oil and gas leasing and development on woody draws, wetlands and riparian areas. (NLMNG FEIS page 2-2)
- The effects of oil and gas leasing and development on wildlife. (NLMNG FEIS page 2-2)
- The effects of oil and gas leasing and development in low development areas. (NLMNG FEIS page 2-2)
- The effects of oil and gas leasing and development on scenic values. (NLMNG FEIS page 2-2)
- The effects of oil and gas leasing and development on livestock grazing. (NLMNG FEIS page 2-3)
- The effects of oil and gas leasing and development on air quality. (NLMNG FEIS page 2-3)
- The effects of surface management policies on the economics of oil and gas exploration and development. (NLMNG FEIS page 2-3)

B. PUBLIC INPUT TO THE DEIS AND RESPONSES INCLUDED IN THE FEIS

In response to the DEIS a number of people stated that the DEIS did not adequately address four subject areas. These subjects were addressed in the DEIS but not to the level of detail the public felt was warranted. The FEIS discloses additional information on these four subjects and included them as issues in the FEIS. The four subjects areas are; cultural/historic sites; threatened, endangered, and sensitive plants; biodiversity; and water quality. The following section summarizes the public input and the responses in the FEIS. More information on the public involvement process, and how input was used is continued in Chapter 5 of the NLMNG FEIS to the seven original issues and the four additional subject areas.

1. The effects of oil and gas leasing and development on woody draws, wetlands and riparian areas.

Woody draws, wetlands and riparian areas constitute key habitat for many species of interest as they offer shelter and protection from the elements and predators. Interconnected woody draws offer protected travel routes for many species. These areas are sensitive to disturbance and slow to recover. These resources are protected through management direction and guidelines in the Forest Plan. Acres of woody draws impacted by roads is used as an indicator of impacts for this issue. Woody draws were identified as an issue in the Forest Plan, and these areas were allocated to a specific management area so management standards and guidelines could be established for them.

Some commenters felt that the protection of woody draws too narrowly restricts surface activities, particularly the no surface occupancy stipulation. The FEIS discloses additional information on affects on woody draws, wetlands, and riparian areas in Chapter 4.

2. The effects of oil and gas leasing and development on wildlife.

Activities related to oil and gas exploration and development may have adverse effects on wildlife and key habitat areas. Species of particular concern include bighorn sheep, elk, sharptail grouse, prairie dogs, and raptors such as bald and golden eagles, prairie falcons, and ferruginous hawks. Effects include road kills, poaching because of increased access, and added hunting pressure. The miles of roads constructed/reconstructed and the number of new well pads are used as indicators of how wildlife habitat is affected by oil and gas development. These numbers are used in calculations in the Mule Deer Model.

Sixteen commenters felt more information was needed to disclose the impacts of oil and gas leasing on wildlife. The FEIS on page 4-1 discusses changes made to more concisely display environmental effects. The maps that accompanied the DEIS display information on location of wildlife habitat.

3. The effects of oil and gas leasing and development in low development areas.

While there are no extensive areas in the EIS study area that are roadless, there are areas that retain a mostly undeveloped character. These are identified as Management Area J in the Forest Plan. Forest Plan direction provides for use of a no surface occupancy stipulation (NSO) on new leases in low development areas. Miles of roads constructed and/or reconstructed and the number of new well pads are used as indicators of how the low development areas would be affected by new oil and gas development. Currently unleased acres that would be made administratively available with a NSO Stipulation in Management Area J are also used as indicators.

Environmental interests felt the impacts on low development areas are limited to miles of new roads. They also felt the range of alternatives for the administratively available decision was too limited. In response to input from the public, a new set of maps was added to the back of the FEIS to disclose more site-specific information on low development and other high interest areas with additional analysis in the body of the document. Also, two additional alternatives were developed and environmental effects disclosed related to both the administratively available decision and to the leasing of specific lands decision.

4. The effects of oil and gas leasing and development on scenic values.

Specific areas of concern are the viewsheds of the Theodore Roosevelt National Park, views from the Little Missouri River, and views from Forest Service recreation areas at Buffalo Gap, Sather Lake, Summit, and Whitetail. The Forest Plan provides for use of a controlled surface use or no surface use stipulation to meet the visual quality objectives. Acres of NSO for visual objectives indicate how this issue is addressed by the alternatives.

Many commenters felt more protection of viewsheds around Theodore Roosevelt National Park is needed. More commenters supported prohibiting leasing in the EIS study area. Some commenters stated a reduction of tourism dollars would occur because of oil and gas development within sight of the Theodore Roosevelt National Park. Other commenters favoring leasing felt the stipulations for visual quality objectives were overly restrictive. Three alternatives were developed to specifically address concerns related to the viewsheds around Theodore Roosevelt National Park. Additional maps have been added to the back of the FEIS to display visual constraints and related minerals ownership in these areas (NLMNG FEIS, Table 4.11, pages 4-44, and the maps at the end of the FEIS).

5. The effects of oil and gas leasing and development on livestock grazing.

Oil and gas activities may reduce range capacity, which may result in reduced AUMs and affect grazing capacity on public lands. The acres of vegetation impacted by new wells, roads, and acres of vegetation restored after roads are closed and wells are abandoned are used to determine the impact on AUMs.

6. The effects of oil and gas leasing and development on air quality.

The existing air quality of the area is at or near regulatory limitations. The Class I airsheds of the Theodore Roosevelt Park units are of particular concern. Any new sources may cause exceedences or unacceptable impacts. There is a concern that additional wells may exceed regulatory limits. The number of forecasted wells operating at one time is used as an indicator for this issue.

Some commenters expressed concerns about air quality where it is at or near regulatory limits and where sulfur dioxide increment limits have been exceeded (NLMNG FEIS, Appendix D, page 4-63).

7. The effects of surface management policies on the economics of oil and gas exploration and development.

While economic effects are not an environmental issue in a physical or biological sense, NEPA does require evaluation of the social and economic effects of the various alternatives. Concern was expressed that additional leasing requirements raise the cost of exploring and developing federal leases. Costs and revenues are discussed in Chapters 2, 3 and 4. Federal oil royalty and lease revenues are used as indicators.

Some commenters advocated leasing and subsequent development because of their economic benefit to the state and local economies.

8. The effects of oil and gas leasing and development on cultural/historic sites.

Some commenters indicated that cultural and historic sites were not given enough attention and lacked detail. Two commenters felt historical values were overlooked completely. In response to comments, a new data base was developed for all cultural/historic sites within the EIS study area. Additional information was collected and is in the EIS record on file. The results of the new information are incorporated in Chapter 3 and 4 of this FEIS (NLMNG FEIS, Appendix K).

9. The effects on threatened, endangered, and sensitive plants from oil and gas leasing and development.

Some commenters were concerned that rare plants were not given enough consideration. The U.S. Fish and Wildlife Service has not identified any threatened or endangered plant species within the NLMNG EIS study area. The Forest Service has identified three sensitive plant species, and the North Dakota Natural Heritage Inventory has confirmed a "watch" list of 31 species of plants. This information and the results of further analysis have been incorporated into this FEIS (NLMNG FEIS, page 4-24).

10. The effects of oil and gas leasing and development on biodiversity.

Some commenters were concerned that more roads and wells would fragment and destroy existing habitat for all plant and animal habitats. The feeling was the draft EIS lacked an adequate analysis of the impacts from oil and gas leasing. In response to this issue, the Forest Service has completed additional analysis and prepared a report on biodiversity. Information and results of the biodiversity analysis are incorporated into Chapter 3 and 4 of the FEIS.

11. The effects of oil and gas leasing on water quality.

Some commenters questioned analysis on water quality and requested further analysis. Additional analysis has been done and the results are incorporated into Chapters 3 and 4 of the NLMNG FEIS.

12. The effects of the RFDS on the leasing analysis.

How the RFDS is calculated and used affects the analysis process. Several commenters expressed concerns that the RFDS did not vary by alternative. The FEIS includes more discussion on the effect of the patchwork ownership in the NLMNG and its effect on the variability of the RFDS. Several commenters mentioned that the RFDS did not adequately take into account the number of wells that would be plugged over the next ten years. The FEIS has been revised to predict those numbers and analyze the effects. Several commenters felt the RFDS was too specific in locating the well sites or were concerned that the locations predicted by the RFDS would be the only locations approved in the future. The FEIS has been revised to better explain that the RFDS is only a projection and many well locations will be different.

13. Development of stipulations.

Several commenters expressed concerns that the Forest Service choose the minimum restrictive lease stipulation needed to protect a specific resource. The FEIS has been revised to better justify the stipulations used.

C. RESPONSE TO PUBLIC INPUT BY TOPIC IN THE FEIS

The following section summarizes public input by topic, and the response section describes how the topic was addressed in the FEIS.

1. Adequacy of Analysis and Data

Forty-six respondents commented on the adequacy of the analysis, the data, or the alternatives. Both data and analysis relative to the effects analysis, stipulations, scope of the analysis, visual quality, water quality, air quality, RFDS, and economics were questioned by many respondents. Several asked for inclusion or use of additional studies produced by other agencies or organizations in the analysis. The Colorado State University (CSU) study was recommended relative to visuals and recreation experience and was used as a comparison analysis by a number of respondents. The National Park Service also mentioned several of their own research studies they felt were relevant to this analysis. A number of respondents were under the impression that the wells and roads identified in the RFDS were actual locations and that industry would be limited to those sites. About one-half of the respondents claimed the RFDS was "fatally flawed" with reasons such as: incorrect assumption of a benign oil industry; no analysis of some very important issues (biodiversity; visual, noise, air/water quality and odor standards); no cumulative effects analysis of road construction in addition to inadequate assessment of any cumulative effects; inadequate biological assessment; and no chance for industry to provide its own data.

The scope of the analysis was a major source of comment. Some respondents felt that all lands, including those currently under lease, should be considered in the analysis and that there should be no further site-specific analysis conducted. Respondents felt this would eliminate future appeals and extend time-frames resulting from appeals and litigation. Conversely, several other respondents said "the document fails to provide the site-specific information necessary to make this (site-specific leasing) decision". A few respondents felt that the current leasing practice - issuing less than a dozen leases per year - works and should continue. Several respondents felt there was not a full range of alternatives analyzed.

Response:

The information that the public asked to be considered in the DEIS was reviewed and considered. A number of studies and other sources of data were used or considered. Several previously-conducted studies identified by the public address very specific situations. The information in these reports was considered and incorporated as appropriate. Some of the studies were not based on sound scientific approaches, and bias was built into the study design. This was considered when using this information.

There was a considerable amount of confusion over the intent of the RFDS (Reasonably Foreseeable Development Scenario). The document was quite specific in the assumptions that were made in development of the RFDS. However, many people responded to what they heard, what they read in the newspaper, or read in other documents, rather than the DEIS. This created confusion and frustration for a number of respondents.

Some publics expected the RFDS to do some things that it is not designed to do, such as address biodiversity and cumulative effects. The RFDS is an analysis tool which provides a basis for the analysis of effects. The RFDS was based on the best publicly scientific data available at the time but does not include confidential information the oil and gas industry has not released.

All lands currently leased and unleased are considered in the resource analysis. This point was emphasized in the public scoping documents as well as in the many newspaper articles.

There was some confusion between the DEIS and the FEIS on the scope of the pending decision. In the summary of the DEIS the decision was described as limited to only the unleased lands. In Chapter I of the DEIS the decision is defined to apply to those areas which are currently unleased and those areas which have the potential to become available for leasing. The decision in this ROD applies to all federal minerals in the study area. This includes both the leased and unleased mineral estate. Some respondents felt that additional site-specific analysis is not required and to do so would be in conflict with the rules and regulations for leasing, as well as with court rulings. The effects disclosed in the FEIS are based on site-specific analysis. To help clarify the level of site-specific analysis, the FEIS contains expanded information on "high interest" areas, such as some of the wildlife emphasis areas, areas adjacent to units of Theodore Roosevelt National Park, and areas adjacent to the Little Missouri River. The level of detail highlighted for these areas is available for the entire study area in the planning records and referenced in the FEIS.

The current level of leasing (a few leases per year) is not adequately responsive to oil and gas industry requests for leases or to Congressional or Presidential direction.

2. Cultural/Historic Sites

Eleven respondents commented on cultural or historic sites. The overall impression was that cultural and historical sites were not given enough attention, and what attention they were given, was lacking in detail. Two respondents wanted the Forest Service to provide a map identifying all recorded sites. Two respondents felt historical values in the Grassland were overlooked completely.

Response:

Cultural and historic values have been considered in detail in the analysis. Cultural and historic site information is "administratively confidential" and is not be disclosed in the FEIS. A listing of sites, and the type site is included but not the location of sites. Additional information has been considered and reviewed this field season. This new information has been considered in the FEIS (NLMNG FEIS page 4-50 and page 3-47, and Appendix K).

3. Economics

Twenty-three respondents commented on economics. Almost half felt leasing and subsequent development would be of great economic benefit to the state and local economies. The other half talked about reduction of tourism dollars because of "oil and gas development within sight of the Theodore Roosevelt National Park."

Response:

The economic implications of oil and gas development and the possible impacts on tourism are spelled out in more detail in the FEIS. The revenues that are returned to the Federal Government have averaged about 20 million dollars annually over the past 10 years. The development of oil and gas resources adjacent to the units of Theodore Roosevelt National Park has been an ongoing activity for the past 10 to 20 years. All alternatives consider the recreation value of the units of the park, and constraints (stipulations) vary by alternative (NLMNG FEIS page 3-69 and page 4-70).

4. Grazing

Nine respondents commented on grazing. Several felt grazing and oil and gas development were compatible uses of the grasslands. One respondent did not. Other respondents wanted grazing stopped on the grasslands.

Response:

The analysis of effects of oil and gas development on grazing has been expanded in the FEIS. (NLMNG FEIS pages 3-28, 4-20-21, Table 4.7).

5. Multiple Use

Seven respondents commented on multiple use. All were for multiple use but to them, it meant "...roadless areas and wildlife deserve more attention and that oil, gas and grazing deserve less."

Response:

Land allocations which provide for a mix of multiple uses that meet the intent of the Multiple Use Sustained Yield Act are identified in the Land and Resource Management Plan for the Custer National Forest. More site-specific information is disclosed in the FEIS for a number of high interest areas.

6. Plants and Wildlife

Sixteen respondents commented on plants and wildlife. Almost all felt the document needed more and better consideration of oil and gas development impacts on plants and wildlife. The U.S. Fish and Wildlife Service (USFWS) concurred with the Forest's determination of no adverse effect on the peregrine falcon, black-footed ferret, and bald eagle; however, they thought additional analysis was necessary for threatened and endangered Category II species, Forest Service sensitive species, and management indicator species. Several respondents asked how stipulations would improve wildlife habitat. Some questioned the use of the Mule Deer Habitat Effectiveness model. Many respondents talked about how roads and development would fragment and destroy existing habitat for all plant and animal populations. Two respondents felt a survey of wildlife should be done at the APD stage, like the rare plant survey now required.

Response:

Cumulative impacts to wildlife were considered in the Custer Forest Plan; additional site-specific information regarding impacts to sensitive plants and wildlife is considered in the FEIS. During the development of the DEIS a biological assessment was prepared and sent to the US Fish and Wildlife Service. Their letter responding to this assessment is included in Chapter 5 of the FEIS. Oil and gas leasing stipulations mitigate impacts of development to biological resources by constraining the type and location of development activities. Site specific mitigation measures can also be added at the time an application for permit to drill is approved.

The Mule Deer Habitat Effectiveness Model is the same model used to evaluate impacts on mule deer in the Custer Forest Plan. This model was developed with the assistance of the North Dakota Game and Fish Department. The analysis supporting the Forest Plan displayed very little impact on mule deer due to oil and gas development. Population surveys and the number of mule deer permits issued in the Little Missouri National Grassland over the past 10 years support the analysis of impacts.

Additional information related to threatened, endangered, and sensitive plants and animals is disclosed in the FEIS. (NLMNG FEIS page 3-21, 3-27, 3-28, 4-13, 4-22, 4-22, and 4-36)

7. Roads

Seven respondents talked about roads. Three called for a comprehensive Transportation Plan for the Little Missouri National Grassland. One respondent wanted more roads to provide access for more recreation activities. Several others wanted specific criteria to be laid out for road closures.

Response:

A transportation plan for the Little Missouri National Grasslands was developed as a part of the Forest Planning process. This transportation plan provides the overall direction on corridors for arterial and collector (major access) roads. The transportation system is designed to avoid "thru" routes and to eliminate "loop" drives and improves the opportunity for road management in the future. The Forest Plan, pages 36-38, contains management standards and guidelines for transportation facilities. Roads that are constructed to access oil and gas development are under special use permit and are the same as a private road in that they are not legally open to the public unless they are on a location where they will be retained as part of the long-term Forest transportation system. When the well is plugged and rehabilitated the road will also be closed, reshaped to near natural contours, and reseeded to native grass species. (NLMNG FEIS page 3-38 and 4-38)

8. Stipulations

Forty-three respondents commented on lease stipulations. The majority of respondents felt imposition of Visual Quality Objectives (VQO) and No Surface Occupancy (NSO) stipulations on leases were too restrictive. Reasons included: "...concern that NSO stipulations will amount to a de facto no leasing of these minerals;"; concern over the lack of data/discussion supporting the use of these stipulations; concern that other stipulations and restrictions are available and haven't been adequately considered; feeling the lessee will only have a superficial right to exercise his development rights; increased costs to the developer; and that guidelines and mitigation have and will continue to provide sufficient protection without being overly restrictive. Conversely, one respondent felt NSO never worked because the Forest Service regularly granted waivers. Many respondents stated that a more detailed "cost/benefit" comparison needs to be conducted and the analysis should "...incorporate mitigations and stipulations in the effects analysis so that only net impacts will be used instead of a worse case scenario." Several respondents felt environmental protection stipulations for new leases should also be applied to existing leases, while others felt leasing should be continued under present standards.

Response:

Stipulations are used to implement the resource standards and guidelines developed in the Custer Forest Plan and to mitigate impacts that occur with oil and gas development. The FEIS contains additional information on the effects and need for various stipulations. The statement that NSO never works is not true.

The economic impacts of leasing, or not leasing, or leasing with more restrictive stipulations are disclosed in the FEIS. The economic comparisons are based on assumptions contained in the RFDS, as that is the basis for the overall analysis. (NLMNG FEIS, page 4-77).

New stipulations cannot be added to existing leases without the concurrence of the leaseholder. A lease is a binding contract between the US Government and the leaseholder and can be modified only through negotiating the change and, if necessary, paying for the financial impact to the leaseholder. To date the oil and gas industry has been very receptive to environmental protection measures recommended by the Forest Service. At the time an application for permit to drill is received, additional NEPA analysis is conducted, and industry has been very willing to accept additional mitigation measures even though they are not included as stipulations in the existing lease.

9. Visuals/Aesthetics/Recreation

Fifteen respondents commented on visual quality, aesthetics, or recreation. Data and analysis relative to visual quality were questioned by some respondents. A few respondents expressed a concern that "...measures were not sufficient to protect scenic, natural, and historic values." However, many proponents felt VQO's (Visual Quality Objectives) for the Little Missouri National Grassland were "...overly restrictive..." and "...could exclude large areas of land development." Further, leasing proponents said

guidelines regulating activity to date have proven sufficient and that "...the area retains almost all its aesthetic qualities." Some respondents felt the Forest Service should close specific lands to leasing where an area viewshed and/or recreational value might be adversely impacted. Mentioned most often were: areas seen from Theodore Roosevelt National Park, areas around the Elkhorn Ranch Unit, all roadless areas, all seen areas from the Little Missouri River, all historic sites and cultural sites, all developed recreation sites, all trails (both existing and potential), and all critical wildlife habitat, woody draws, and riparian areas.

Response:

The level of detail as it relates to visual quality in high interest areas has been increased in the FEIS. Additional analysis to confirm data included in the DEIS has also been completed and incorporated into the analysis record and the FEIS. To help clarify the impacts of oil and gas development, additional maps and narrative information, including opportunities forgone by area, are highlighted in the FEIS. Many commenters apparently assumed that all of the lands adjacent to the units of the park and along the Little Missouri River are owned or controlled by the Forest Service. This is not the case, and the FEIS expands on the implications of mixed ownership as it relates to protection of the visual resources (NLMNG FEIS page 3-40, 3-43, 4-42 and 4-49).

Restrictions (stipulations) identified to protect areas of high recreation use such as parks, scenic rivers, and campgrounds are consistent with Forest Plan direction. The DEIS and FEIS honor the visual quality protection measures called for in the Forest Plan, although some alternatives include visual constraints which are more restrictive than required by the Forest Plan. There are other proposed activities, such as proposed trail construction, that are not defined to the point where protection of the visual quality is appropriate.

10. Water, Air and Soil

Eleven respondents commented on water quality, air quality, or soil. Several respondents expressed concern over potential impacts to air quality due to increased oil and gas activity. Concerns were expressed about air where the quality is at or near regulatory limits and where sulfur dioxide increment limits are being exceeded. Some respondents felt "...the EIS should strengthen its focus on maintaining the existing air and water quality standards." A few respondents suggested restricting development to "sweet" gas formations; others suggested the need for additional monitoring and use of various mitigation methods to assist in meeting air quality standards and regulations.

Data and analysis about water quality were questioned by several respondents. Some questioned the adequacy of assessed impacts should a spill occur. Some respondents wanted further analysis on turbidity, suspended sediments, settleable solids, heavy metal contamination from drilling muds and fluids, and hydrocarbon contamination. One respondent questioned a statement about how seismic activities can disturb well water and cause water level fluctuations or reductions in spring flows. Their response was "...there are several objective studies which indicate that seismic activities as close as 250 feet to springs have had no impact on the subsurface water flow or aquifer." One respondent felt the "...EIS should more thoroughly address the impact of oil and gas leasing or potential mitigation measures to maintain water quality standards."

One respondent felt the EIS needed to discuss cumulative impacts relative to loss of soil fertility from stockpiling, loss of stability of geologic formations and soils from well pad construction, or attempts at reclamation, and difficulty of reshaping landforms during reclamation.

Response:

Disclosure of Impacts and discussion of available information on air and water quality have been increased in the FEIS. The disclosure of impacts and discussion of available information on air and water quality has been increased in the FEIS. The air quality modeling discussion has been significantly

expanded to address concerns of respondents. Additionally, the role of federal land managers, e.g. Forest Service and BLM, in air quality management and protection is discussed as well as that of other agencies and the state. The "Williston Basin Air Quality Impact Oil Field Mitigation Plan" developed by the North Dakota State Department of Health is included as well.

Additional information related to ground water quality has been disclosed in the FEIS. Also, the discussion on spills has been expanded based on Forest Service experience. Seismic or geophysical exploration are not discussed in detail as granting of a permit for collection of geophysical information is not a part of the leasing decision (NLMNG FEIS page 3-23, 3-63, 4-9, 4-57 and 4-62).

The cumulative effects of leasing and development on soil fertility and geologic stability are considered to be relatively minor in the study area. The Little Missouri National Grasslands are geologically very unstable by nature, as evidenced by the annual down-cutting of streams and high silt load carried by the Little Missouri River. This process continues through natural wind and water erosion and will not be noticeably accelerated as a result of oil and gas development.

11. Woody Draws

Eight respondents commented on woody draws. A number of respondents felt stipulations relative to woody draws "...too narrowly restrict surface activities and that other means are available to protect scenic/resource values without using No Surface Occupancy." Several respondents felt protection of woody draws is important since these areas are limited in number and vital for their value to wildlife. But several proponents of leasing asked, "...why do you put [stipulations for woody draw protection] in an analysis such as this when your job is to lease all the lands possible in the study area?"

Response:

There are a number of ways to protect woody draws, including reliance on "standard" lease terms. However, the Forest Plan allocated riparian areas and woody draws to special management areas because of their value for wildlife habitat. The stipulations applied to woody draws protect the wildlife habitat value of the areas, but seldom eliminate the opportunity for oil and gas development. The increased cost of development because of such stipulations is generally accepted as reasonable and seldom questioned by the oil and gas industry on a site-specific basis. Site-specific areas of high interest, including riparian areas and woody draws, are mapped and identified as areas to be protected as part of the FEIS (NLMNG FEIS page 3-28, 4-22 and 4-27 and Tables 3.5, 3.10, 4.15 and 4.29).

IV. ALTERNATIVES CONSIDERED

A. AVAILABILITY ALTERNATIVES

The DEIS and the FEIS both deal with two levels of needed decisions and, consequently, address two sets of alternatives. The first set of alternatives deals with the "availability" decision, and the second set of alternatives deals with the "leasing of specific lands" decision. In response to public input, the Modified Proposed Action Alternative (Alternative 1 in the DEIS) was expanded to three alternatives in the FEIS. This provided me seven alternatives to choose from in deciding what is appropriate. The seven alternatives include a wide range of options, ranging from no lands administratively available, to a portion of the lands administratively available, to all lands administratively available for oil and gas exploration and development. As stated earlier in this ROD, it was my decision to select portions of Alternatives 1B and 1C.

Table 3, Lands Administratively Available by Alternative.

	Proposed Action in DEIS	Alternative 1 (Modified PA)		Alternative 2 (No New Leasing)		Alternative 3 (No Action)	Alternative 4 (Standard Lease Terms)
Management Area	PA	1A	1B	1C	2	3	4
B	A	A	A	A	NA	A	A
C							
Dutchman's Barn	A	A	A	NA	NA	A	A
Wannigan	A	A	A	NA	NA	A	A
Elkhorn	A	A	A	NA	NA	A	A
Whitetail	A	A	A	NA	NA	A	A
Hanks Gully	A	A	A	NA	NA	A	A
Bennett Cottonwood	A	A	A	NA	NA	A	A
Lone Butte	A	A	A	NA	NA	A	A
Burnt Creek	A	A	A	NA	NA	A	A
D	A	A	A	A	NA	A	A
E	A	A	A	A	NA	A	A
J							
Horse Creek	A	A	A	NA	NA	A	A
Long X Divide	A	A	A	NA	NA	A	A
Lone Butte	A	A	A	NA	NA	A	A
Bennett Cottonwood	A	A	A	NA	NA	A	A
Twin Buttes	A	A	NA	NA	NA	A	A
K							
Blue Buttes	A	A	NA	NA	NA	A	A
Viewsheds around TRNP Add Retention Area	A	A	A	NA	NA	A	A
A				NA			
Visual Management along Little Missouri River	A	A	A	NA	NA	A	A

Abbreviations used in the preceding table are as follows:

A is Available

NA is Not Available

1. DEIS Proposed Action Alternative

This alternative was designed to protect the identified issues of environmental concern and to address the economic concerns which in part form the basis of the purpose and need for this EIS. Under this alternative, the environmental protection measures are based on the Forest Plan. All Federal Lands not exempted from the EIS study area would be administratively available.

2. Alternative 1 - Modified Proposed Action

This alternative was developed to highlight differences between the Proposed Action where federal minerals in Management Areas C,J and K, views along the Little Missouri River, and some viewsheds adjacent to Theodore Roosevelt National Park (TRNP), are administratively available. The draft EIS showed all Federal lands available for leasing under this alternative. In response to public comment on the Draft EIS, three options were developed to analyze a wider range of alternatives. The three options are **Alternative 1A**, **Alternative 1B** and **Alternative 1C**. The purpose of the analysis was to determine the environmental and economic effects on the federal minerals in C, J, and K areas and the viewsheds around TRNP, and visual areas along the Little Missouri River. The three options or alternatives are:

(a) Alternative 1A

This alternative makes Management Areas C, J, and K, viewsheds adjacent to TRNP, and visuals along the Little Missouri River administratively available for leasing. Under this alternative, all lands not exempted from the EIS study area would be administratively available.

(b) Alternative 1B

This alternative is different from alternative 1A because it considers a mix of areas in Management Areas C and J as either administratively available or NOT administratively available. This alternative demonstrates the difference in effects from a mix of administratively available or not administratively available in management areas C and J.

Under this alternative, all of Management Areas C would be administratively available. Four of the five Management Areas J would be administratively available. Twin Buttes would NOT be administratively available because it has had strong public support for retaining the existing roadless character. Management Area K, Blue Buttes, is NOT administratively available because it is used for Native American religious practices and contains important cultural sites. Implementation of this alternative will require a site specific amendment to the Forest Plan for the Twin Buttes and Blue Buttes areas.

The Viewsheds adjacent to TRNP and visual areas along the Little Missouri River are administratively available.

(c) Alternative 1C

This alternative is different from alternatives 1A and 1B in that Management Areas C, J, and K are NOT administratively available. This alternative was developed in response to public comments that the range of alternatives for administratively available lands was limited to an all or none situation.

This alternative is different from 1B in that it makes viewsheds adjacent to TRNP and Visual areas along the Little Missouri River (that were leased with a NSO stipulation) NOT administratively available. Many of the Public comments on the DEIS asked that a no leasing of viewsheds adjacent to the TRNP be considered. Implementation of this alternative will require a site specific amendment to the Forest Plan.

3. Alternative 2 - No New Leasing

This alternative was developed to highlight the most aggressive way available to protect the environmental issues identified in the scoping process.

Under this alternative, no lands would be made administratively available. Under this alternative no Federal minerals, regardless of whether they are currently leased or unleased, would be available. This alternative considers one hundred percent of the viewsheds around TRNP and visual areas along the Little Missouri River as NOT administratively available.

4. Alternative 3 - No Action

This no-action alternative was developed as required by NEPA to highlight the differences between the current course of action and other alternatives proposed in this EIS.

All lands would continue to be administratively available consistent with the Forest Plan. This alternative might also be considered as the deferred action as leases would be processed on a lease-by-lease basis without a firm commitment at this time.

5. Alternative 4 - Standard Lease Terms

All lands would continue to be administratively available consistent with the Forest Plan.

B.

SITE SPECIFIC LEASING ALTERNATIVES

The following table displays the site specific leasing options considered by alternative and management area. The options considered by alternative are based on the "availability" decision displayed in the previous table. As stated earlier in this ROD, I selected portions of Alternatives 1B and 1C as my decision.

Table 4, Site Specific Leasing Options by Alternative

	Proposed Action	Alternative 1 (Modified PA)			Alternative 2 (No New Leasing)	Alternative 3 (No Action)	Alternative 4 (Standard Lease Terms)
Management Area	PA	1A	1B	1C	2	3	4
B	L	L	L	L	NA	L	L
C							
Dutchman's Barn	L	NL	NL	NA	NA	L	L
Wannigan	L	NL	NL	NA	NA	L	L
Elkhorn	L	NL	L	NA	NA	L	L
Whitetail	L	NL	L	NA	NA	L	L
Hanks Gully	L	NL	L	NA	NA	L	L
Bennett Cottonwood	L	NL	L	NA	NA	L	L
Lone Butte	L	NL	NL	NA	NA	L	L
Burnt Creek	L	NL	L	NA	NA	L	L
D	L	L	L	L	NA	L	L
E	L	L	L	L	NA	L	L
J							
Horse Creek	L	NL	NL	NA	NA	L	L
Long X Divide	L	NL	NL	NA	NA	L	L
Lone Butte	L	NL	NL	NA	NA	L	L
Bennett Cottonwood	L	NL	L	NA	NA	L	L
Twin Buttes	L	NL	NA	NA	NA	L	L
K							
Blue Buttes	L	NL	NA	NA	NA	L	L
Viewsheds around TRNP	L	L	L	NA	NA	L	L
Add Retention Area			L	NA			
Visual Management along Little Missouri River	L	L	L	NA	NA	L	L

Abbreviations used in the preceding table are as follow:

L Is Lease

NL Is Not Leased

NA Is Not Available

1. DEIS Proposed Action Alternative

All areas not specifically designated as subject to lease stipulations would be open to development under standard lease terms.

Resource areas requiring the No Surface Occupancy (NSO) stipulation are key wildlife habitat areas, slopes greater than forty percent, key visual areas and management areas C, J, and K.

Woody Draws and canyon complexes have a Controlled Surface Use Stipulation and are displayed on Map 9 included with the FEIS. Timing Stipulations displayed for Raptor Nests, Sharptail grouse dancing grounds, developed recreation sites and on key visual areas around Theodore Roosevelt National Park.

2. Alternative 1 - Modified Proposed Action

(a) Alternative 1A

This alternative does not lease Management Areas C, J, and K at this time in order to move towards Forest Plan management area goals. Viewsheds adjacent to TRNP are leased with a NSO and a exploration summer timing stipulation to meet Forest Plan visual objectives. Visuals along the Little Missouri River are leased with a NSO stipulation.

With the exception of the requirement for no new leasing in Management Areas C, J, and K, this alternative is the same as the DEIS proposed action alternative described above. The Reasonably Foreseeable Development Scenario for the location of wells and roads is the same as under the DEIS proposed action. The difference is that under the DEIS proposed action alternative some wells outside Management Areas C,J, and K would directionally drill oil and gas from these areas. Under this alternative, and 1C, there would be no new leasing in these management areas and consequently no opportunity for directional drilling the eight new wells projected in the RFD.

(b) Alternative 1B

Under this alternative, five of the eight management areas C are leased with a No Surface Occupancy (NSO) stipulation. The Management Areas C NOT leased are Lone Butte, Wannigan and Dutchman's Barn (see Table 3.10 in the FEIS). Dutchman's Barn is managed for bighorn sheep and is adjacent to a North Dakota Fish and Game Department enclosure. Wannigan is adjacent to the North Boundary of the South Unit of the Theodore Roosevelt National Park and is a bighorn sheep area. Lone Butte contains some outstanding badlands topography and is a bighorn sheep area.

Viewsheds adjacent to TRNP are leased with a NSO and summer timing exploration stipulation where needed to meet visual objectives. In response to public comments on the DEIS, further analysis was done to clarify the visual objectives around the TRNP. This alternative and alternative 1C change the visual quality objective on some lands on the North and South Units of TRNP from a partial retention to retention. Additional Federal lands, unleased and leased, within the retention area would be stipulated with a NSO. Visuals along the Little Missouri River are leased with a NSO stipulation. Implementation of this alternative will require a site specific amendment to the Forest Plan.

(c) Alternative 1C

All administratively available lands are leased.

The Reasonably Foreseeable Development Scenario for the location of wells and roads is similar to the DEIS proposed action. Under this alternative, there is no opportunity for directional drilling and a

loss of economic opportunity in management areas C, J, and K. No lease of the viewsheds and visual areas would result in one well not being developed.

3. Alternative 2 - No New Leasing

Under this alternative no areas of Federal mineral ownership (with minor exceptions noted in the FEIS) would be Administratively Available for Leasing and therefore no lands would be available for specific leases. Existing leases would be valid until expiration. Implementation of this alternative will require an amendment to the Forest Plan.

4. Alternative 3 - No Action

This alternative assumes the specific lease decisions on a lease-by-lease basis with focus on a priority basis. This approach was used for analysis purposes. Currently, the Forest Service uses the Forest Plan as a guide for lease issuance. Lands leased would be subject to the same stipulations identified for the DEIS proposed action alternative.

5. Alternative 4 - Standard Lease Terms

This alternative analyzes the differences in environmental effects between the use of stipulations in the DEIS proposed action and Alternatives 1A, 1B, 1C and Alternative 3 with leasing on the less restrictive standard lease terms only.

V. NATIONAL FOREST MANAGEMENT ACT FINDINGS

The National Forest Management Act requires all projects and activities be consistent with the Forest Plan. Following is a discussion related to each of the applicable elements as identified in 36 CFR 219.27 and FSH 1909.12, 5.31a..

- A. **Consistency:** Through the site specific analysis for this project and additional analysis, several points of inconsistency with the Forest Plan were discovered. These inconsistencies in data, as well as the change in the administratively available decision for some lands are being changed by amending the Forest Plan. The amendments were discussed earlier in this document, and are included in Appendix A.
- B. **Suitability for Timber Production:** Not applicable as this project does not deal with timber harvest.
- C. **Clearcutting and Even-aged Management:** Not applicable as this project does not deal with timber harvest.
- D. **Vegetative Manipulation:** This is not applicable as this is not a project designed to manipulate vegetation.

VI. CONSULTATION WITH OTHERS

Consultation with the Bureau of Land Management has been continuous through the development of the DEIS, FEIS, and ROD. Consultation with other State and Federal Agencies, organizations, and the public has been on-going throughout the analysis process. How the FEIS responds to some of the comments by other state and federal agencies is briefly summarized as follows:

The US Fish and Wildlife Service has been consulted with as required by the Endangered Species Act. The US Fish and Wildlife Service also responded to the DEIS. They were unaware that a transportation plan had been developed as a part of the Forest Plan and questioned the impacts of road management on wildlife

habitats. Monitoring and inventory were also points of concern. The FEIS discloses additional information as some additional inventory work has been done in preparation of the FEIS. They were concerned about woody draw protection and in the FEIS the use of the controlled surface use stipulation has been replaced by using the no surface occupancy stipulations. Protection of raptors and nests has also been changed through a Forest Plan amendment in response to one of their concerns.

The Governor of North Dakota provided information and was consulted on air quality, water quality, wildlife, economic affects of development, oil and gas production, and a number of other areas. The Governor expressed a concern related to biodiversity. The DEIS contained some information on biodiversity, but because of the concern by the Governor and others, this information was labeled to make it more visible and expanded. Impacts to visual resources around Theodore Roosevelt National Park was a concern also. The visual resources around the units of the park were reassessed and in some areas the management objective changed from partial retention to retentions. Additional direction was added in the FEIS and these areas addressed in alternatives as special areas. New stipulations were identified to reduce the impact of noise on some critical areas (Maps AA.4, AA.5, AA.9, AA.11, AA.12, AA.13). The Governor also requested more concise site-specific information for high interest areas. In response to this, a set of 13 maps were added to the end of the FEIS as well as expansion of information of text in the body of the FEIS.

USDI Park Service was concerned about the possible impacts of leasing on the visual quality of the area surrounding the units of Theodore Roosevelt National Park and possible impacts on visitors. Additional inventory work was completed between the DEIS and the FEIS on visual resources surrounding the units of the park. As a result, the visual management objectives surrounding the park were changed as noted in the response to the Governor of the State of North Dakota. Additional information on possible impacts on tourism was also included in the FEIS. The Park Service has also expressed a concern related to air and water quality and in response to this additional information is included in the FEIS. This information includes a more detailed discussion of the air quality modeling used to make predictions and North Dakota's "Williston Basin Air Quality Impact Oil Field Mitigation Plan" (9/12/91). They also expressed a concern with the array of alternatives considered. In response to this, two additional alternatives were considered in the FEIS and they included the areas surrounding the units of the park as special interest areas (Maps AA.4, AA.5, AA.9, AA.11, AA.12, AA.13).

EPA was concerned about possible violations of air quality standards, increments, cumulative impacts, and a system of monitoring to serve as an early indicator of potential problems. EPA's concerns are addressed through more detailed discussion in the final EIS of the air quality modeling used to make predictions and through North Dakota's "Williston Basin Air Quality Impact Oil Field Mitigation Plan" (9/12/91). This plan is included in the final EIS.

Input from other agencies was considered and incorporated where possible. I recognize that the goals and objectives of some other State and Federal agencies are considerably different than those of the Forest Service. However, I believe the alternative I have selected is responsive to most of their concerns and that the FEIS discloses information related to their concerns.

VII.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

Alternative 2- No New Leasing is the environmentally preferred alternative. Under this alternative no lands would be made administratively available for leasing and consequently there would be no leasing of specific lands. No federal minerals, regardless of whether they are currently leased or unleased, would be considered for lease issuance. Existing leases would be valid until they expired.

VIII.

MITIGATION

Appendix I of the Final EIS lists the stipulations developed to reduce the environmental effects on surface resources. The measures identified are for all action alternatives and are discussed in Chapter IV of the FEIS as ways of mitigating the effects of each alternative on surface resources. These stipulations must be accepted

by the lessee as a part of the lease. These stipulations represent what I consider to be the best means to avoid or minimize environmental impacts that may arise from the project and meet the integrated resource management requirements of the Forest Plan. In addition, these stipulations represent all practicable means to avoid or minimize environmental harm from the alternative selected. It is my decision to apply these measures to my decision. Tables 5 and 6 summarize these measures. The effectiveness of these measures is cited in the Final EIS, Chapter IV by alternative for each resource. Mitigation for air quality will not be included in the leases but is outlined in "Williston Basin Air Quality Impact Oil Field Mitigation Plan" by the North Dakota State Department of Health.

The Controlled Surface Use (CSU) stipulation will be applied to 490 acres within Management Area B to protect the visual and auditory integrity of the Elkhorn Ranch Unit of Theodore Roosevelt National Park.

Table 5. Timing Constraints By Resource and Acres

Resource	Timing Limitation	Total Federal Estate Acres	Unleased Acres	Leased Held By Production	Leased Not Held By Production
Raptor Nests Inactive Eagle Active Eagle Falcons & Ferruginous Hawks	February 15 - May 1 February 15 - July 15 March 15 - July 20	36,378	12,788	17,695	5,895
Grouse	March 1 - April 30	3,141	1,255	293	1,593
Recreation Areas	May 15 - September 15	1,204	891	113	200
Visuals	Memorial Day - Labor Day	42,290	16,267	17,421	8,602

Table 6. Stipulation and Lease Notice Summary Listed by Resource

Resource	Mgmt Area	Stipulation or Lease Notice	Area or Rationale for the Stipulation (or Lease Notice) Applies to
Soil/Water	B, D, E	NSO	Slopes greater than 40 percent, fragile soils, and/or mass failure hazard.
Visual	B, D	NSO, Timing,	Within specified seen areas of the Little Missouri River and or CSU TRNP if the prescribed VQO's could not be met using conventional methods. Based on site specific analysis, the least restrictive stipulation(s) will be applied that meets the required VQO.
Recreation	F	NSO	Within developed recreation sites.
Recreation	F	Timing	Within ¼ mile of developed sites from May 15 - Sept. 15.
Recreation	F	CSU	Within ¼ mile of developed recreation sites.
Wildlife	B, D, E	NSO	Within ¼ mile of eagle, falcon, and ferruginous hawk nests.
Wildlife	B, D, E	Timing	Within ½ mile of eagle, falcon, and ferruginous hawk nests during breeding, incubation, and fledgling periods.
Wildlife	B, D	NSO	Within 100 feet of prairie dog towns.
Woody Draws	N	NSO	Minimize disturbance to woody draws.
Wildlife	B, D	CSU or NSO	To protect high value big-game habitat in badlands canyon complexes. Site specific analysis will determine the degree of protection required (CSU or NSO); the least restrictive stipulation protecting the values will be used.
Wildlife	B, D	NSO	Within 200 feet of grouse dancing grounds.
Wildlife	B, D	Timing	Within ¼ mile of grouse dancing grounds during period of March 1 to April 15.
Cultural	B	CSU	Within one mile of the Elkhorn Ranch Site of TRNP to control audio level to maintain cultural integrity.
Wildlife	C	NSO	100 percent NSO in MA C.
LDAs	J	NSO	100 percent NSO in Low Development Areas.
Cultural, WL,Archeological	K	NSO	100 percent in Blue Buttes area.
Cultural	B, D	NSO	Prevent degradation of graves and grave yards.
RNA's	L	NSO	Protect Research Natural Areas.
Water	N/A	NSO	100 percent NSO for river bottom leases.
Riparian	M	Lease Notice	Protection of riparian ecosystem, including stream/river channels, shorelines, floodplains, and wetlands.

IX. MONITORING AND EVALUATION

Monitoring needs are discussed in Chapter IV of the Final EIS. Monitoring is the evaluation of project implementation to determine how well objectives of the FEIS are being met and to determine the effects of project implementation on the environment. Depending on the stage of the project, monitoring will vary in intensity by resource element being monitored.

In order to validate and improve our decision making for future lease issuance under this FEIS and to keep the FEIS viable, leasing progress will be monitored yearly. The annual Custer Forest Plan monitoring report will be used as the basis for monitoring.

All monitoring programs are designed to assure that impacts to resources are minimal and allow corrective actions to be taken immediately should unanticipated actions occur. The adequacy of the findings and resource data in the FEIS will be monitored over time to insure that leases issued in the future will be in conformance with the latest laws, regulations, and resource management requirements.

The monitoring results will be evaluated over time to determine the following:

- Whether to continue, modify or discontinue the project.
- If additional amendments are needed to the Forest Plan or supplements are needed to the FEIS.
- Additional monitoring needs.

X. IMPLEMENTATION

The decisions identified in this Record of Decision shall be implemented in the following manner:

(1) The decision to amend the Forest Plan will be implemented upon public notice. This Record of Decision is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in this analysis process. In addition, notice of this notice will be published in local newspapers. The amendments are included in Appendix A.

(2) In accordance with 36 CFR 228.102(d), the Regional Forester shall promptly notify the BLM as to the area or forest-wide leasing decisions that have been made, that is, identify lands which have been found administratively available for leasing.

(3) In accordance with 36 CFR 228.102(e), Available unleased lands for which the Forest Service has authorized the BLM to offer for lease will be submitted to the BLM to offer for lease in the next available lease sale as soon as the Forest Service takes administrative action to parcel the land and attach the appropriate stipulations as identified in this FEIS and ROD. These actions are administrative functions implementing the decisions of this ROD and are not appealable. Not all leases will be offered at the same lease sale. There will be a number of lease sales. Priority for lands being offered for lease will include whether: a) they are nominated by the industry; b) if BLM identifies the lands as subject to drainage; c) if the lands had a pre-sale offer.

(4) If the lands in the parcels do not receive a bid at a sale, they will be available for noncompetitive offers for a two-year period.

(5) Following lease issuance, a lessee/operator may submit an Application for Permit to Drill (APD) and Surface Use Plan of Operations (SUPO). A lessee/operator may not conduct on-the-ground actions without an approved APD and SUPO. The BLM will forward the application and the proposed Surface Use Plan of Operations to the Forest Service. An environmental analysis, tiered to the FEIS, will be completed on the APD proposal. This decision is not being made in this ROD. The Deciding Officer may:

- Approve the plan as submitted,
- Approve the plan subject to specific conditions of approval, or
- Disapprove the plan with stated reasons (36 CFR 228.107).

XI. APPEAL PROCEDURES

A. FOREST SERVICE APPEAL

Under the authority of the Federal Onshore Oil and Gas Leasing Reform Act, and the implementing regulations in 36 CFR 228.102, the Forest Service is responsible for; 1.) 36 CFR 228.102(d), Area or Forest-wide leasing decisions (lands administratively available for leasing) and; 2.) 228.102(e), Leasing decisions for specific lands. Therefore, decisions relating to surface uses on National Forest System lands are subject to appeal pursuant to 36 CFR 217. Any written Notice of Appeal of the Forest Service decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal", including the reasons for appeal and two copies must be filed within 45 days beginning the day following the date of publication of the Legal Notice of this ROD in the *Bismarck Tribune* newspaper.

Chief
USDA - Forest Service
201 14th St., S.W. at Independence Ave. S.W.
Washington DC 20250

B. BUREAU OF LAND MANAGEMENT APPEAL

The decision made herein by the Bureau of Land management may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. A notice of appeal must be filed within 30 days beginning the day following the date of publication of the notice of this decision in the Federal Register. The notice of appeal must be filed in the Montana State Office, BLM, 222 North 32nd Street, PO Box 36800, Billings, MT, 59107. A copy of such notice also be provided to the Field Solicitor, US Department of the Interior, PO Box 31394, Billings, MT, 59107-1394.

Within 30 days after filing the notice of appeal, a complete statement of the reasons for the appeal must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, VA, 22203 (see 43 CFR 4.412 and 4.413). If the reasons for the appeal are fully stated when filing the notice of appeal, no additional statement is necessary. A copy of the statement of reasons must also be provided to the Field Solicitor.

Within 15 days after each document is filed, each adverse party named in the decision and the Field Solicitor (address: U.S. Department of the Interior, PO Box 31394, Billings, MT, 59107-1394) must be served with a copy of the notice of appeal, the statement of reasons, and any other documents filed as part of the appeal.

Within 15 days after any document is served on an adverse party, file proof of that service with the US Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, VA, 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR 4.401(c)(2)).

Unless these procedures are followed, an appeal will be subject to dismissal. The appellant has the burden of showing that the decision appealed from is in error.

XII. CONTACT PERSON

For additional information, contact:

Carl Fager, Team Leader
Custer National Forest
P.O. Box 2556
Billings, MT 59103
Phone (406) 657-6361

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DECISION NOTICE
NONSIGNIFICANT AMENDMENT TO THE
CUSTER NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN
CUSTER NATIONAL FOREST, MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA

AMENDMENT NUMBER 9
AVAILABILITY FOR OIL AND GAS LEASING
October 1991

DECISION NOTICE

Decision: It is my decision to amend the Record of Decision (ROD) for the Custer National Forest Land and Resource Management Plan (Forest Plan) based on my decision on administratively availability for oil and gas leasing of four Management Areas in the Little Missouri National Grasslands.

Rationale for the Decision: The Record of Decision for the Forest Plan states that all lands, except for existing and proposed wilderness areas, are available for further consideration for oil and gas leasing. On page 17 of the Forest Plan Record of Decision it states: "For leasing in the future, my recommendation or consent decision to lease, not recommend leasing, or lease with specific stipulations will be based upon findings of site-specific analysis and consistency with the Forest Plan."

The site-specific analysis for the "administratively available" decision as required by CFR 36 228.102(d) for the Northern Little Missouri National Grasslands (Final Environmental Impact Statement dated September 1991) and associated ROD disclose impacts that I did not feel met the intent of the Forest Plan and were not in the best public interest. I decided to make the NOT ADMINISTRATIVELY AVAILABLE for leasing for the following areas; Dutchman's Barn (Management Area C), Long X Divide and Twin Buttes (Management Area J), and Blue Buttes (Management Area K).

This decision is based on my review of the environmental impacts disclosed in the Northern Little Missouri National Grasslands FEIS. I believe my decision is in compliance with all applicable laws and regulations.

NONSIGNIFICANT NFMA AMENDMENT

This decision does not alter any of the long-term relationships between the level of good and services projected by the Forest Plan as disclosed in the Northern Little Missouri National Grasslands FEIS of September 1991. Therefore, this amendment is non-significant under NFMA (36 CFR 219.10(f)), and Forest Service Manual 1922.51, item 1 and 3.

IMPLEMENTATION

This decision will be implemented upon public notice. This Decision Notice is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in the amendment process. In addition, notice of this decision will be published in local newspapers.

Appendix A

ADMINISTRATIVE APPEAL

This decision is subject to appeal pursuant to 36 CFR 217. Any written notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal". As a minimum, a written notice of appeal filed with the reviewing officer must: 1) List the name, address, and telephone number of the appellant; 2) Identify the decision about which the requester objects; 3) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer; 4) Identify specifically that portion of the decision or decision document to which the requester objects; 5) State the reasons for objecting, including issues of fact, law, regulation, or policy and if applicable specifically how the decision violates law, regulation, or policy, and; 6) Identify the specific change(s) in the decision that the appellant seeks. (36 CFR 217.9(b)). A written notice of appeal must be filed within 45 days of the date of this decision and sent to:

John Hughes, Acting Regional Forester
Northern Region
200 East Broadway
PO Box 7669
Missoula, MT 59801

Simultaneously a copy of the notice of appeal must be sent to the Deciding Officer, Forest Supervisor, Curtis W. Bates, PO Box 2556, Billings, MT 59103. The notice of appeal must be files in compliance with the procedures identified in 36 CFR 217 (54 FR 3357).

CONTACT PERSON

Further information about this decision can be obtained from:

Leroy White, Planning Program Officer
Custer National Forest
PO Box 2556
Billings, MT 59103
(406) 657-6361

Forest Plan Amendment Number 9
Custer National Forest
Billings, Montana

The Custer National Forest Land and Resource Management Plan Record of Decision dated June 10, 1987 will be amended as follows:

Record of Decision, page 9 and 10 are amended to read as follows:

I have identified the lands available for oil and gas leasing, lands available for leasing with No Surface Occupancy stipulations, and lands that I have identified where conditions lead to recommendations not to lease. Areas that are available for leasing using the stipulations identified in the Forest Plan are management Areas A, B, D, E, G, R and T. Areas available for leasing with a No Surface Occupancy stipulation are management Areas F, L, M, N, O, P, Q, S and portions of C and J. In these areas, surface disturbance is incompatible with surface resource values. Areas where leasing is not compatible with long-term goals are Management Areas H, I, K and portions of C and J. The following areas are not administratively available for leasing; Dutchman's Barn (Management Area C), Long X Divide and Twin Buttes (Management Area J), and Blue Buttes (Management Area K).


For Curtis W. Bates
Curtis W. Bates
Forest Supervisor

10/24/91
Date



Appendix A

**DECISION NOTICE
NONSIGNIFICANT AMENDMENT TO THE
CUSTER NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN
CUSTER NATIONAL FOREST, MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA**

**AMENDMENT NUMBER 10
VISUAL RESOURCES
October 1991**

DECISION NOTICE

Decision: It is my decision to amend the Record of Decision (ROD) for the Custer National Forest Land and Resource Management Plan (Forest Plan) based on additional field analysis and evaluation of the environmental effects of oil and gas leasing on portions of the various units of Theodore Roosevelt National Park. The additional analysis was done as part of the data gathering for the oil and gas leasing study for the Northern Little Missouri National Grasslands Environmental Impact Statement.

Rationale for the Decision: In the development of the NLMNG FEIS additional analysis of visual resources was conducted around Theodore Roosevelt National Park. Based on the analysis, I am amending the Forest Plan by changing the visual quality objective from "partial retention" to "retention" for certain areas surrounding the Park. The areas are available for oil and gas leasing and will be leased with a "No Surface Occupancy Stipulation" as stated in the Record of Decision for the NLMNG.

NONSIGNIFICANT NFMA AMENDMENT

This decision does not alter any of the long-term relationships between the level of good and services projected by the Forest Plan as disclosed in the Northern Little Missouri National Grasslands FEIS of September 1991. Therefore, this amendment is non-significant under NFMA (36 CFR 219.10(f)), and Forest Service Manual 1922.51, item 1 and 3.

IMPLEMENTATION

This decision will be implemented upon public notice. This Decision Notice is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in the amendment process. In addition, notice of this decision will be published in local newspapers.

ADMINISTRATIVE APPEAL

This decision is subject to appeal pursuant to 36 CFR 217. Any written notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal". As a minimum, a written notice of appeal filed with the reviewing officer must: 1) List the name, address, and telephone number of the appellant; 2) Identify the decision about which the requester objects; 3) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer; 4) Identify specifically that portion of the decision or decision document to which the requester objects; 5) State the reasons for objecting, including issues of fact, law, regulation, or policy and if applicable specifically how the decision violates law, regulation, or policy, and; 6) Identify the specific change(s) in the decision that the appellant seeks. (36 CFR 217.9(b)). A written notice of appeal must be filed within 45 days of the date of this decision and sent to:

John Hughes, Acting Regional Forester
Northern Region
200 East Broadway
PO Box 7669
Missoula, MT 59801

Simultaneously a copy of the notice of appeal must be sent to the Deciding Officer, Forest Supervisor, Curtis W. Bates, PO Box 2556, Billings, MT 59103. The notice of appeal must be files in compliance with the procedures identified in 36 CFR 217 (54 FR 3357).

CONTACT PERSON

Further information about this decision can be obtained from:

Leroy White, Planning Program Officer
Custer National Forest
PO Box 2556
Billings, MT 59103
(406) 657-6361

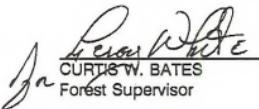
Appendix A

Forest Plan Amendment Number 10 Custer National Forest Billings, Montana

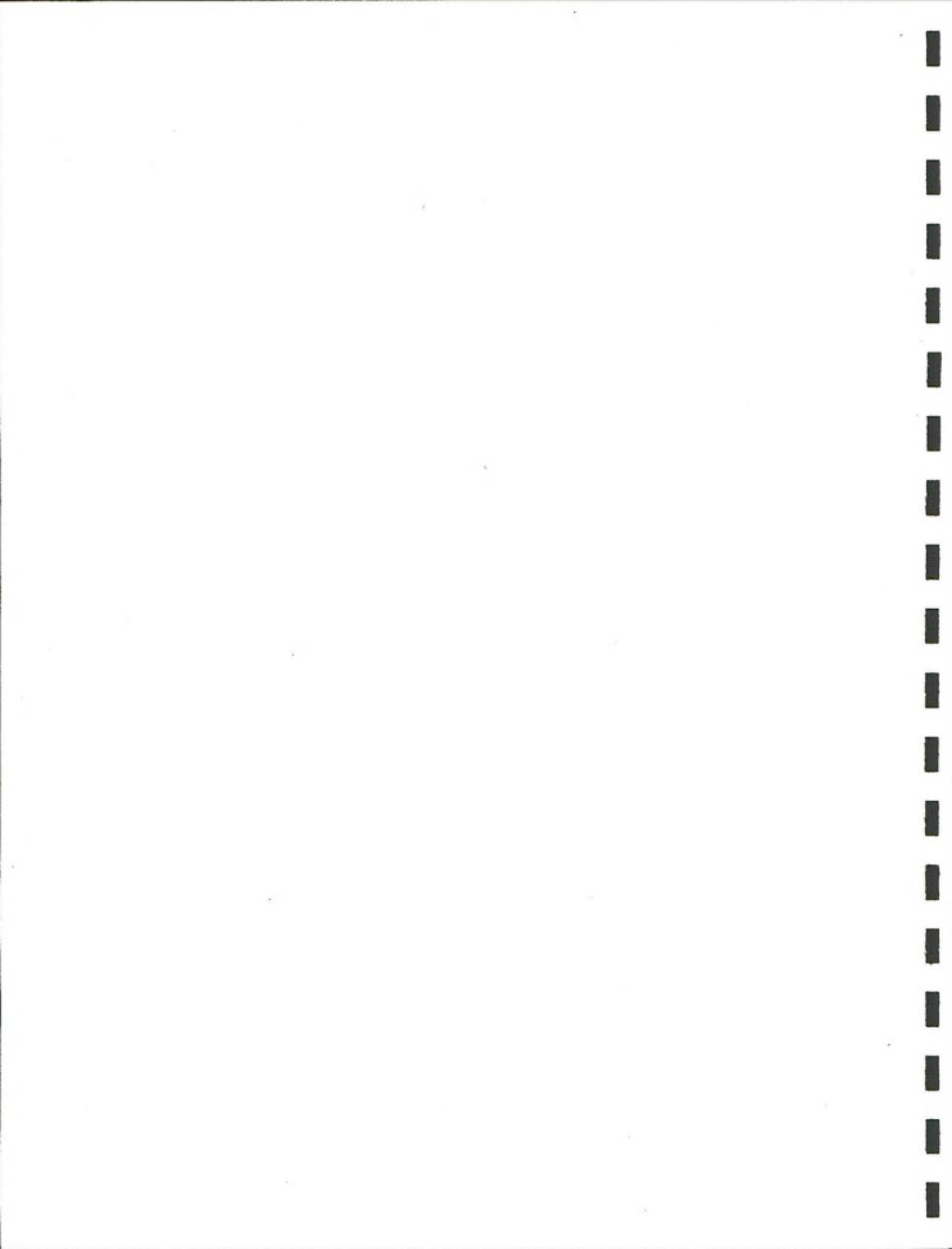
The Custer National Forest Land and Resource Management Plan is amended as follows:

In the Forest Plan, page 45, C. Management Standards, 1. Recreation, item c., I am changing the second sentence to read: *"The seen area from Theodore Roosevelt National Park is assigned the VQO of Retention."* In the Forest Plan, page 53, C. Management Standards, 1. Recreation, item c., I am changing the last sentence to read: *"The seen area from Theodore Roosevelt National Park is assigned the VQO of Retention."* In the Forest Plan, page 58, C. Management Standards, 1. Recreation, item c., I am changing the second sentence to read: *"The seen area from Theodore Roosevelt National Park is assigned the VQO of Retention."* The areas identified for management as "retention" in the Northern Little Missouri National Grasslands FEIS will be managed so that, "human activities are not evident to the casual forest visitor". The areas are available for oil and gas leasing, and will be leased with a "No Surface Occupancy Stipulation".

I am amending the Forest Plan (pages 45, 53, and 58) to read "retention" instead of "partial retention".


CURTIS W. BATES
Forest Supervisor

10/24/91
Date



DECISION NOTICE
NONSIGNIFICANT AMENDMENT TO THE
CUSTER NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN
CUSTER NATIONAL FOREST, MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA

AMENDMENT NUMBER 11
Ferruginous hawk, *Buteo regalis*
October 1991

DECISION NOTICE

Decision: It is my decision to amend the Wildlife Appendix in the Forest Plan, pages 177 - 181, to include the Ferruginous hawk as a sensitive species in North Dakota.

Rationale for the Decision: The Ferruginous hawk, (*Buteo regalis*) was not a listed species when the Forest Plan was developed. Because of the need to protect this species I am adding it to the list of species for protection in accordance with direction in the Forest Plan.

NONSIGNIFICANT NFMA AMENDMENT

This decision does not alter any of the long-term relationships between the level of good and services projected by the Forest Plan as disclosed in the Northern Little Missouri National Grasslands FEIS of September 1991. Therefore, this amendment is non-significant under NFMA (36 CFR 219.10(f)), and Forest Service Manual 1922.51, item 1 and 3.

IMPLEMENTATION

This decision will be implemented upon public notice. This Decision Notice is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in the amendment process. In addition, notice of this decision will be published in local newspapers.

Appendix A

ADMINISTRATIVE APPEAL

This decision is subject to appeal pursuant to 36 CFR 217. Any written notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal". As a minimum, a written notice of appeal filed with the reviewing officer must: 1) List the name, address, and telephone number of the appellant; 2) Identify the decision about which the requester objects; 3) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer; 4) Identify specifically that portion of the decision or decision document to which the requester objects; 5) State the reasons for objecting, including issues of fact, law, regulation, or policy and if applicable specifically how the decision violates law, regulation, or policy, and; 6) Identify the specific change(s) in the decision that the appellant seeks. (36 CFR 217.9(b)). A written notice of appeal must be filed within 45 days of the date of this decision and sent to:

John Hughes, Acting Regional Forester
Northern Region
200 East Broadway
PO Box 7669
Missoula, MT 59801

Simultaneously a copy of the notice of appeal must be sent to the Deciding Officer, Forest Supervisor, Curtis W. Bates, PO Box 2556, Billings, MT 59103. The notice of appeal must be files in compliance with the procedures identified in 36 CFR 217 (54 FR 3357).

CONTACT PERSON

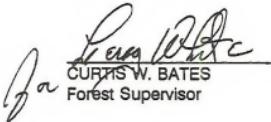
Further information about this decision can be obtained from:

Leroy White, Planning Program Officer
Custer National Forest
PO Box 2556
Billings, MT 59103
(406) 657-6361

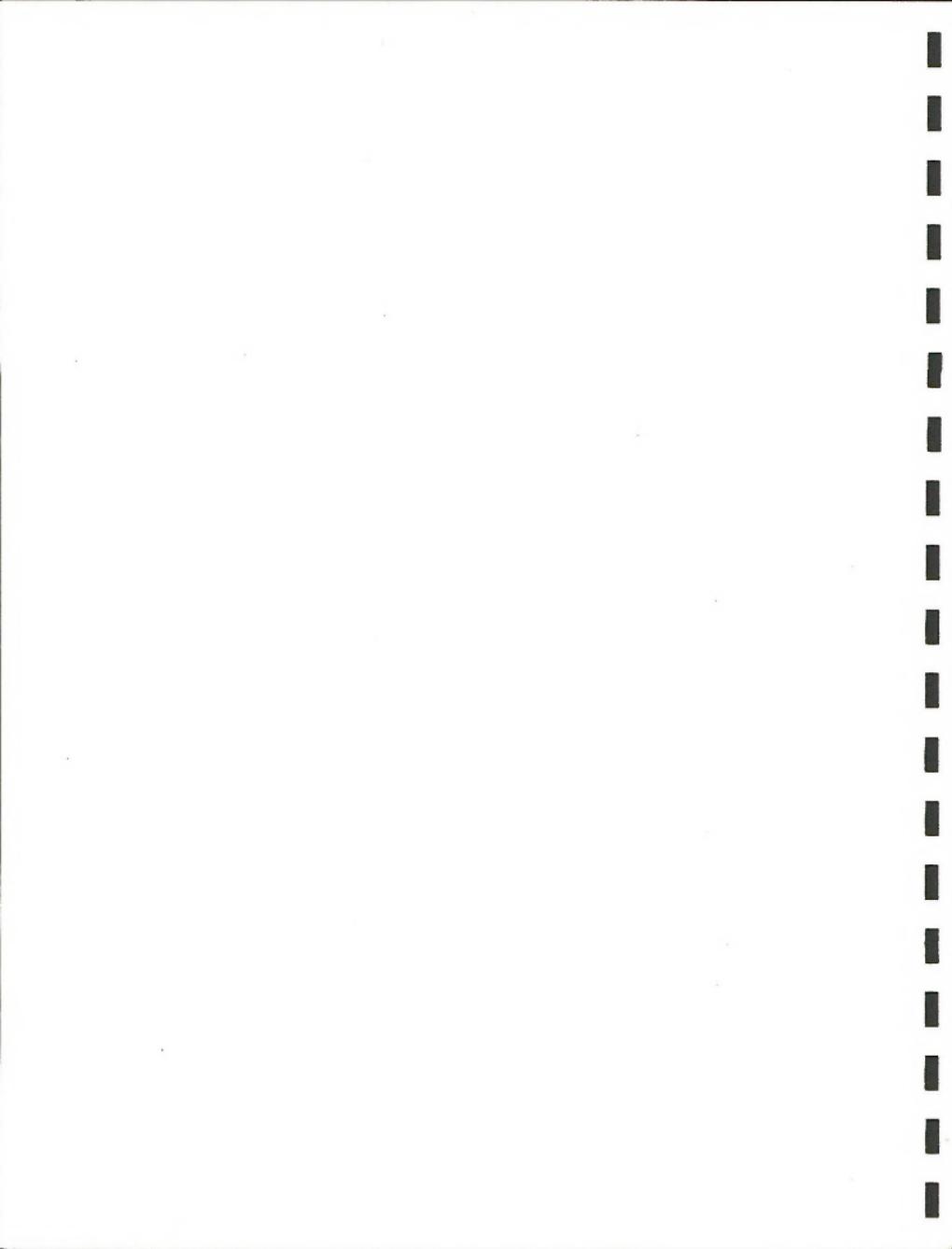
Forest Plan Amendment Number 11
Custer National Forest
Billings, Montana

The Custer National Forest Land and Resource Management Plan is amended as follows:

On page 180 of the Forest Plan (Wildlife Appendix VII), add Ferruginous hawk, (*Buteo regalis*) as a Sensitive species in North Dakota.


CURRISS W. BATES
Forest Supervisor

10/24/91
Date



Appendix A

**DECISION NOTICE
NONSIGNIFICANT AMENDMENT TO THE
CUSTER NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN
CUSTER NATIONAL FOREST, MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA**

**AMENDMENT NUMBER 12
PRAIRIE GROUSE
October 1991**

DECISION NOTICE

Decision: It is my decision to amend the Custer National Forest Land and Resource Management Plan (Forest Plan) to change the dates for protection of prairie grouse dancing grounds from 3/1 to 4/15 annually to 3/1 to 4/30 annually.

Rationale for the Decision: Based on field experience over the past few years the Forests wildlife biologists have reported use of dancing grounds between 4/15 and 4/30. To meet the intent of the Forest Plan in protection of these birds at this critical time I am amending the dates to provide protection.

NONSIGNIFICANT NFMA AMENDMENT

This decision does not alter any of the long-term relationships between the level of good and services projected by the Forest Plan as disclosed in the Northern Little Missouri National Grasslands FEIS of September 1991. Therefore, this amendment is non-significant under NFMA (36 CFR 219.10(f)), and Forest Service Manual 1922.51, item 1 and 3.

IMPLEMENTATION

This decision will be implemented upon public notice. This Decision Notice is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in the amendment process. In addition, notice of this decision will be published in local newspapers.

ADMINISTRATIVE APPEAL

This decision is subject to appeal pursuant to 36 CFR 217. Any written notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal". As a minimum, a written notice of appeal filed with the reviewing officer must: 1) List the name, address, and telephone number of the appellant; 2) Identify the decision about which the requester objects; 3) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer; 4) Identify specifically that portion of the decision or decision document to which the requester objects; 5) State the reasons for objecting, including issues of fact, law, regulation, or policy and if applicable specifically how the decision violates law, regulation, or policy, and; 6) Identify the specific change(s) in the decision that the appellant seeks. (36 CFR 217.9(b)). A written notice of appeal must be filed within 45 days of the date of this decision and sent to:

John Hughes, Acting Regional Forester
Northern Region
200 East Broadway
PO Box 7669
Missoula, MT 59801

Simultaneously a copy of the notice of appeal must be sent to the Deciding Officer, Forest Supervisor, Curtis W. Bates, PO Box 2556, Billings, MT 59103. The notice of appeal must be files in compliance with the procedures identified in 36 CFR 217 (54 FR 3357).

CONTACT PERSON

Further information about this decision can be obtained from:

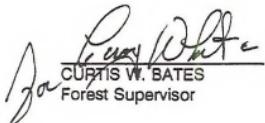
Leroy White, Planning Program Officer
Custer National Forest
PO Box 2556
Billings, MT 59103
(406) 657-6361

Appendix A

Forest Plan Amendment Number 12
Custer National Forest
Billings, Montana

The Custer National Forest Land and Resource Management Plan is amended as follows:

On page 172 of the Forest Plan, (Wildlife Appendix VII) change the date for protection of Prairie Grouse dancing grounds from 4/15 to 4/30.


Curtis W. Bates
Forest Supervisor

10/24/91
Date



**DECISION NOTICE
NONSIGNIFICANT AMENDMENT TO THE
CUSTER NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN
CUSTER NATIONAL FOREST, MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA**

**AMENDMENT NUMBER 13
WOODY DRAWS, MANAGEMENT AREA N
October 1991**

DECISION NOTICE

Decision: It is my decision to amend the Custer National Forest Land and Resource Management Plan (Forest Plan) based on my decision on leasing stipulations for Management Area N in the Little Missouri National Grasslands.

On page 83 of the Forest Plan, under **C. Management Standards, 1. Recreation**, item f., I am deleting the first sentence that reads, "Visual Quality Objectives of Retention will be met in this area except where crossed by roads." The other change I am making is under Minerals and Geology (page 84). Item C states: "When a lease application is received, or existing lease expire or terminate, a Limited Surface Use Stipulation will be applied to minimize surface disturbances". Based on the sites specific analysis included in the Northern Little Missouri National Grasslands FEIS I am requiring that these areas be protected by a "No Surface Occupancy Stipulation" (NSO). The NSO stipulation will protect the unique values of this management area and still provide for the development of the oil and gas resource in this area.

Rationale for the Decision: In the past maintaining a Visual Quality Objective of retention has complicated the interpretation of the intent of protection. The main consideration is to protect the integrity of these areas from ground disturbing activity. Visual quality objectives are written to protect the visual quality of an area. The intent of the Forest Plan is to protect the continuity of woody cover whenever possible. Roads, powerline, and pipelines are permitted under special use permit and the Forest Plan provides guidance on location of these facilities. The Forest Plan provides direction on allowing these crossings at right angles to minimize adverse impacts to the draws. The No Surface Occupancy stipulation does a better job of providing the needed guidance, and does not confuse the intent.

NONSIGNIFICANT NFMA AMENDMENT

This decision does not alter any of the long-term relationships between the level of good and services projected by the Forest Plan as disclosed in the Northern Little Missouri National Grasslands FEIS of September 1991. Therefore, this amendment is non-significant under NFMA (36 CFR 219.10(f)), and Forest Service Manual 1922.51, item 1 and 3.

IMPLEMENTATION

This decision will be implemented upon public notice. This Decision Notice is public notice and will be sent to all those who have requested notice of Forest Plan amendments and those who have participated in the amendment process. In addition, notice of this decision will be published in local newspapers.

Appendix A

ADMINISTRATIVE APPEAL

This decision is subject to appeal pursuant to 36 CFR 217. Any written notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal". As a minimum, a written notice of appeal filed with the reviewing officer must: 1) List the name, address, and telephone number of the appellant; 2) Identify the decision about which the requester objects; 3) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer; 4) Identify specifically that portion of the decision or decision document to which the requester objects; 5) State the reasons for objecting, including issues of fact, law, regulation, or policy and if applicable specifically how the decision violates law, regulation, or policy, and; 6) Identify the specific change(s) in the decision that the appellant seeks. (36 CFR 217.9(b)). A written notice of appeal must be filed within 45 days of the date of this decision and sent to:

John Hughes, Acting Regional Forester
Northern Region
200 East Broadway
PO Box 7669
Missoula, MT 59801

Simultaneously a copy of the notice of appeal must be sent to the Deciding Officer, Forest Supervisor, Curtis W. Bates, PO Box 2556, Billings, MT 59103. The notice of appeal must be files in compliance with the procedures identified in 36 CFR 217 (54 FR 3357).

CONTACT PERSON

Further information about this decision can be obtained from:

Leroy White, Planning Program Officer
Custer National Forest
PO Box 2556
Billings, MT 59103
(406) 657-6361

Forest Plan Amendment Number 13
Custer National Forest
Billings, Montana

The Custer National Forest Land and Resource Management Plan is amended as follows:

On page 83 of the Forest Plan, under C. Management Standards, 1. Recreation, item f., delete the sentence that reads, *"Visual Quality Objectives of Retention will be met in this area except where crossed by roads."*

The other change I am making is under Minerals and Geology (page 84). Item c, delete the sentence: *"When a lease application is received, or existing lease expire or terminate, a Limited Surface Use Stipulation will be applied to minimize surface disturbances"*, and replace it with: When new leases are processed, this management area is to be leased with a No Surface Occupancy stipulation.


Joe 
CURTIS W. BATES
Forest Supervisor

10/24/91
Date

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